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GRAIN STANDARDS

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HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON
AGRICULTURE AND FORESTRY
UNITED STATES SENATE
NINETIETH CONGRESS

SECOND SESSION

ON

S. 272, S. 2069, and H.R. 15794

**BILLS TO PROVIDE FOR UNITED STATES STANDARDS AND
A NATIONAL INSPECTION SYSTEM FOR GRAIN, AND FOR
OTHER PURPOSES**

JUNE 17, 1968

Printed for the use of the Committee on Agriculture and Forestry



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1968

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GRAIN STANDARDS

MONDAY, JUNE 17, 1968

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL RESEARCH
AND GENERAL LEGISLATION OF THE
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 324, Old Senate Office Building, Senator B. Everett Jordan of North Carolina presiding.

Present: Senators Jordan of North Carolina (presiding), Young of North Dakota, and Boggs.

Senator JORDAN. The subcommittee will please come to order.

The subcommittee is holding hearings this morning on S. 272, S. 2069 and H.R. 15794.

S. 272 would authorize the use of submitted samples in grain inspection.

S. 2069, which was requested by the Secretary of Agriculture, and H.R. 15794, a companion bill which has been modified by the House of Representatives, constitute general revisions of the U.S. Grain Standards Act. The principal change made by them is the removal of any requirement for inspection of grain in interstate commerce. Inspection would continue to be furnished, but on a purely voluntary basis, and the use of submitted samples would be authorized, except in the case of exports or grain in containers bearing grade designations. Inspection would be required for grain exported on a grade basis.

The bills, the reports of the Department of Agriculture and Department of Transportation on S. 272 and S. 2069, a staff explanation of H.R. 15794 and a report of the Interstate Commerce Commission to Congressman Purcell on a related bill, H.R. 11162, will be inserted in the record at this point.

(Bills and reports follow:)

[S. 272, 90th Cong., first sess.]

A BILL To amend the United States Grain Standards Act, as amended, to permit the inspection of certain grain thereunder upon the basis of submitted samples

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the United States Grain Standards Act, as amended (39 Stat. 483, 7 U.S.C. 76) is amended by adding at the end thereof the following: "Notwithstanding any other provisions of this Act, inspection and grading under this Act of grain shipped or to be shipped in interstate commerce may be based upon a sample or samples obtained (by probe or other mechanical device), and submitted, by or on behalf of the shipper of the grain."

DEPARTMENT OF AGRICULTURE,
Washington, D.C. June 20, 1967.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of January 23, 1967, for a report on S. 272, a bill "to amend the United States Grain Standards Act, as amended, to permit the inspection of certain grain thereunder upon the basis of submitted samples."

Under the existing Act, certain shipments of grain moving from or to certain designated points must be sampled and certified by official inspection personnel in accordance with the applicable U.S. grades. Samples drawn and submitted by the shipper of the grain do not comply with the inspection requirements of the existing Act. S. 272 would authorize the official use of samples drawn and submitted by or on behalf of the shipper of the grain. Thus, some delays would be avoided in rail shipments of grain due to their being held for official sampling when shipped from or to certain designated points.

Long-standing regulations issued under the Act have prohibited licensed grain inspectors from issuing an official U.S. grade certificate except upon "a correct and representative sample of the grain." Sampling procedures, supervision of samples, and custody of samples are as important in determining the true grade of a carlot of grain as is the inspection of the sample itself. It would be inconsistent and anomalous to retain by Federal law the compulsory certification as to the U.S. grade of a carlot of grain based on a sample submitted by the shipper, purportedly drawn from and representative of the carlot in question. Mandatory certification as to the quality of a carlot of grain is simply not compatible with submitted samples, whose authenticity and reliability are unknown to the certifying inspection agency.

The Department is in favor of amendments to the Act which would promote the accurate inspection and the efficient marketing of grain. After a careful review of the Act and of current and projected inspection and merchandising needs, it is our conclusion that a general revision of the Act is needed to most fully accomplish these objectives. We are transmitting to the Congress proposed amendments to update the United States Grain Standards Act. We would favor enactment of this proposed legislation in preference to S. 272.

Unlike S. 272, the Department's proposal would make permissive the official inspection of all interstate shipments of grain to or from all locations in the United States. If a U.S. grade certificate is desired in merchandising a lot of grain, the shipper or receiver could then decide if a submitted sample would fulfill the needs. As with other commodities, official certificates would distinguish between samples submitted by a shipper and samples drawn by the inspection service.

No additional Federal funds are expected to be required if S. 272 is passed as now proposed.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 14, 1968.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has under consideration S. 2069, a bill to provide for United States standards and a national inspection system for grain and for other purposes, and S. 272, a bill to amend the United States Grain Standards Act, as amended to permit the inspection of certain grain thereunder upon the basis of submitted samples.

We are pleased to submit the views and recommendations of this Department.

The present United States Grain Standards Act provides for the establishment of official United States grain standards of quality and condition; requires that grain sold by grade and shipped in interstate or foreign commerce be sold by an official grade fixed on such standards; and, provides for inspection, grading and certification by licensed inspectors.

The proposed bill (S. 2069) would continue the present United States standards for grain, authorize additional inspection services, eliminate certain requirements which are a burden on interstate commerce, strengthen requirements for export grain, make certain activities self-funding and, in general, enable the Secretary of Agriculture to keep his programs and services attuned to the changes that have taken place since 1916 in the transporting, marketing and merchandising of grain and grain products.

We address our comments to those provisions of S. 2069 which place the inspection of grain in domestic commerce on a permissive or voluntary basis thereby eliminating a severe burden on interstate commerce. We defer to the expertise of others to comment on other substantive changes incorporated in this bill.

The Department believes the bill would have the desirable effect of putting more freight cars into the rail transportation pipeline by eliminating those statutes which now clog up the pipeline with unnecessary regulatory inspections. Under the present provisions of the Act, grain moving in interstate commerce is required to be sampled and certified by official grain inspectors. Since official sampling of grain is not available at the small origin elevators and often not practical at intermediate and terminal elevators, official grain inspection is accomplished in-transit at rail points. The enroute stopping of cars causes further delays and congestion due to the rehandling, rebilling and holding of cars. The stopping and holding of cars at rail points results in higher operating expenses, lost car utilization, and of major importance, decreased capacity of the existing rail car fleet to handle available grain tonnages. Elimination of in-transit inspection of grain would add an equivalent capacity to the car fleet, something equal to tens of thousands of freight cars. The benefits to shippers and carriers are obvious—cost of conducting transportation is dramatically reduced and customer service improved.

Lastly, the proposed legislation would eliminate discrimination that now exists between different transportation modes. Although official inspection is technically required, a large percentage of grain now being shipped in interstate commerce is moved by the trucking industry without inspection. However, grain moving by water and rail and under conventional rates is required to be officially inspected by licensed inspectors at designated points. It is therefore discriminating to require inspection of rail or water grain movements and not to require such similar inspection of truck movements.

The second bill before your Committee, S. 272 would permit the *mechanical sampling* of grain by probe or other mechanical device to establish grain standards when so desired and submitted for inspection by shipping interests. The change would mean substantial benefits, such as less costly procedures, fewer car delays, more effective operations and increased equipment capability to meet harvest demands.

S. 272 must be considered in the context of S. 2069. Enactment of S. 2069 would provide the necessary latitude to permit the mechanical sampling by probe sought under S. 272. However, lacking approval of the broad changes of S. 2069, the Department views S. 272 as a step in the right direction in making more freight cars available during grain movements.

Of two bills the Department favors passage of S. 2069 as a means to eliminate discrimination in grain inspection rules affecting the various modes, and to reduce the burden on interstate commerce caused by unnecessary, mandatory inspection regulations.

The Bureau of the Budget advises from the standpoint of the Administration's program that there is no objection to the submission of this report for the consideration of the committee.

Sincerely,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

90TH CONGRESS
1ST SESSION

S. 2069

IN THE SENATE OF THE UNITED STATES

JULY 10, 1967

Mr. ELLENDER (by request) introduced the following bill; which was read twice
and referred to the Committee on Agriculture and Forestry

A BILL

To provide for United States standards and a national inspection
system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting of
4 part B of "An Act making appropriations for the Depart-
5 ment of Agriculture for the fiscal year ending June thirtieth,
6 nineteen hundred and seventeen, and for other purposes",
7 approved August 11, 1916 (39 Stat. 446, at 482), as
8 amended (7 U.S.C. 71-87) is hereby amended, effective
9 one hundred and eighty days after enactment hereof, to read
10 as follows:

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24 context requires otherwise—

1 (1) the term “Secretary” means the Secretary of
2 Agriculture of the United States;

3 (2) the term “Department of Agriculture” means
4 the United States Department of Agriculture;

5 (3) the term “person” means any individual, part-
6 nership, corporation, association, or other business entity;

7 (4) the term “United States” means the States
8 including Puerto Rico) and the territories and posses-
9 sions of the United States (including the District of
10 Columbia) ;

11 (5) the term “interstate or foreign commerce”
12 means commerce from any State (including Puerto
13 Rico) or any territory or possession of the United States
14 (including the District of Columbia) to or through any
15 other State, territory, or possession of the United States
16 or to or through any foreign country;

17 (6) the term “grain” means the threshed seeds of
18 agricultural plants designated by the Secretary upon his
19 determination that such action would tend to accomplish,
20 with respect to such seeds, one or more of the objectives
21 stated in section 2 of this Act;

22 (7) the term “export grain” means grain for ship-
23 ment from the United States to any place outside thereof;

24 (8) the term “official inspection” means the deter-

mination and the certification, by official inspection personnel, of the kind, class, quality, condition, or quantity of, or other facts relating to, grain, under standards provided for in this Act or other criteria approved by the Secretary under this Act (the term “officially inspected” shall be construed accordingly) ;

(9) the term “official inspection personnel” means employees of the Department of Agriculture who are authorized, and employees of State or other governmental agencies or commercial agencies, or other persons, who are licensed, to perform all or specified functions involved in official inspection under this Act;

(10) the term “official inspection mark” means any symbol prescribed by regulations of the Secretary to show the official determination of the kind, class, quality, condition, or quantity of, or other facts relating to, grain, under standards provided for in this Act or other criteria approved by the Secretary under this Act;

(11) the term “official grade designation” means a numerical or sample grade designation, specified in the standards provided for in this Act;

(12) the term “cooperating inspection agency” means the agency or person with whom the Secretary enters into a cooperative agreement for the conduct of official inspection under this Act;

1 (13) the terms “official certificate” and “official
2 form” mean, respectively, a certificate or other form
3 prescribed by regulations of the Secretary under this
4 Act;

5 (14) the term “official sample” means a sample
6 obtained from a lot of grain by, and submitted for offi-
7 cial inspection by, official inspection personnel (the term
8 “official sampling” shall be construed accordingly) ;

9 (15) the term “lot” means a specific quantity of
10 grain identified as such;

11 (16) the term “interested person” means any per-
12 son having a contract or other financial interest in grain
13 as the owner, seller, purchaser, warehouseman, or car-
14 rier, or otherwise;

15 (17) the verb “ship” with respect to grain means
16 transfer physical possession of the grain to another per-
17 son for the purpose of transportation by any means of
18 conveyance, or transport one’s own grain by any means
19 of conveyance;

20 (18) the terms “false”, “incorrect”, and “mislead-
21 ing” mean, respectively, false, incorrect, and misleading
22 in any particular;

23 (19) the term “deceptive loading, handling, or
24 sampling” means any manner of loading, handling, or
25 sampling that deceives or tends to deceive official inspec-

(b) When used in sections 8 and 19 of this Act, the term “State” means any State (including Puerto Rico) or any territory or possession of the United States (including the District of Columbia).

SEC. 4. (a) The Secretary is authorized to gather and analyze information with respect to grain production, handling, and marketing, and related activities for the purpose of determining whether standards should be established, amended, or revoked under this Act; and to establish, on the basis of crop quality data, standards that will accurately measure the kind, class, quality, condition, or other characteristics of grain and that will best reflect the value or usability of the grain, and to amend or revoke such standards, wherever in his judgment such action is necessary or appropriate in order to accomplish any of the objectives stated in section 2 of this Act.

(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year

1 after promulgation thereof, unless in the judgment of the
2 Secretary, the public health, interest, or safety requires that
3 they become effective sooner.

4 OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN
5 EXPORT GRAIN

6 SEC. 5. Whenever standards are effective under sec-
7 tion 4 of this Act for any grain, no person shall ship from
8 the United States to any place outside thereof any lot of
9 such grain that is sold, offered for sale, or consigned for sale
10 by grade, unless such lot is officially inspected in accordance
11 with such standards on the basis of official samples taken
12 as the grain is being loaded aboard, or while it is in, the
13 final carrier in which it is to be transported from the United
14 States, and unless a valid official certificate showing the
15 official grade designation of the lot of grain is promptly
16 furnished by the shipper, or his agent, to the consignee with
17 the bill of lading or other shipping documents covering the
18 shipment: *Provided, however,* That the Secretary may waive
19 any requirement of this section with respect to shipments
20 from or to any area or any other class of shipments when
21 in his judgment the application of such requirement to such
22 shipments is not necessary to effectuate any of the objectives
23 stated in section 2 of this Act, or it is impracticable to
24 provide official inspection with respect to such shipments.

1 REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND
2 PROHIBITION OF CERTAIN ACTS WITH RESPECT TO
3 EXPORT GRAIN

4 SEC. 6. (a) Whenever standards are effective under
5 section 4 of this Act for any grain no person shall in any
6 sale, offer for sale, or consignment for sale, which involves
7 the shipment of such grain from the United States to any
8 place outside thereof, describe such grain as being of any
9 grade in any advertising, price quotation, other negotiation
10 of sale, contract of sale, invoice, bill of lading, other shipping
11 document, or description on bags or other containers of the
12 grain, other than by an official grade designation, with or
13 without additional information as to specified factors.

14 (b) No person shall, in any sale, offer for sale, or con-
15 signment for sale, of any grain which involves the shipment
16 of such grain from the United States to any place outside
17 thereof, knowingly describe such grain by any official grade
18 designation, or other description, which is false or misleading.

19 OFFICIAL INSPECTION AUTHORITY AND FUNDING

20 SEC. 7. (a) The Secretary is authorized to cause official
21 inspection under the standards provided for in section 4 of this
22 Act to be made of all grain required to be officially inspected
23 as provided in section 5 of this Act, in accordance with such
24 regulations as he may prescribe.

25 (b) The Secretary is further authorized, upon request

1 of any interested person, and under such regulations as he
2 may prescribe, to cause official inspection to be made with
3 respect to any grain within or outside the United States under
4 standards provided for in section 4 of this Act, or under other
5 criteria approved by the Secretary for determining the kind,
6 class, quality, condition, or quantity of, or other facts relating
7 to, grain, whenever in his judgment providing such service
8 will effectuate any of the objectives stated in section 2 of this
9 Act.

10 (c) The regulations prescribed by the Secretary under
11 this Act may include provisions for reinspections and appeal
12 inspections and cancellation of false or incorrect certificates,
13 and the Secretary may provide by regulation that samples
14 obtained for purposes of official inspection shall become the
15 property of the United States, and such samples may be dis-
16 posed of without regard to the provisions of the Federal
17 Property and Administrative Services Act of 1949, as
18 amended (40 U.S.C. 471 et seq.).

19 (d) Certificates issued and not canceled under this
20 Act shall be received by all officers and all courts of the
21 United States as prima facie evidence of the truth of the
22 facts stated therein.

23 (e) The Secretary may, under such regulations as he
24 may prescribe, charge and collect reasonable fees to cover

1 the estimated total cost of official inspection except when
2 the inspection is performed by a cooperating inspection
3 agency under a cooperative agreement as provided in sec-
4 tion 8 of this Act. The fees authorized by this paragraph
5 shall, as nearly as practicable and after taking into considera-
6 tion any proceeds from the sale of samples, cover the costs
7 to the Department of Agriculture incident to the perform-
8 ance of the official inspection services for which the fees
9 are collected, including supervisory and administrative costs.
10 Such fees, and the proceeds from the sale of samples obtained
11 for purposes of official inspection which become the prop-
12 erty of the United States, shall be deposited into a fund which
13 shall be available, without fiscal year limitation, for the ex-
14 penses of the Department of Agriculture incident to pro-
15 viding official inspection services.

16 COOPERATIVE AGREEMENTS

17 SEC. 8. (a) The Secretary is authorized to enter into
18 cooperative agreements for the conduct of inspection work
19 under section 7 of this Act in any State with the State de-
20 partment of agriculture or other authorized State agency,
21 any authorized local governmental agency, any commercial
22 agency, or any person, that, in the opinion of the Secretary,
23 will provide adequate facilities and qualified personnel for
24 such inspection work. The Secretary may terminate any such
25 agreement whenever he determines that the cooperating

1 inspection agency has not complied with any requirement
2 under this Act or that such action is otherwise necessary
3 to effectuate any of the objectives stated in section 2 of this
4 Act.

5 (b) The estimated total cost incurred by the cooperating
6 inspection agency in providing such services under each
7 cooperative agreement may be financed by fees to be charged
8 and collected under the terms of such agreement. Such fees
9 shall be reasonable and equal as nearly as practicable to such
10 total cost of providing the services, after taking into con-
11 sideration any proceeds from the sale of samples, and shall
12 be used only for the purpose of performing and administer-
13 ing the official inspection services.

14 (c) Not more than one cooperative agreement for
15 carrying out the provisions of section 7 of this Act shall be
16 effective at one time for any one city, town, or other area
17 covered by any cooperative agreement.

18 LICENSES AND AUTHORIZATIONS

19 SEC. 9. (a) The Secretary is authorized to issue a li-
20 cense to any individual upon presentation to him of satis-
21 factory evidence that such individual is competent, and is
22 employed or operates independently under a cooperative
23 agreement, to perform all or specified functions involved in
24 official inspection; to authorize any competent employee of
25 the Department of Agriculture to perform all or specified

1 functions involved in official inspection; and to license any
2 other competent individual to perform specified functions
3 involved in official inspection under a contract with the De-
4 partment of Agriculture. No person shall perform any official
5 inspection functions for purposes of this Act unless he holds
6 an unsuspended and unrevoked license or authorization from
7 the Secretary under this Act.

8 (b) All classes of licenses issued under this Act shall
9 terminate triennially on a date or dates to be fixed by regula-
10 tion of the Secretary: *Provided*, That any license shall termi-
11 nate automatically when the licensee ceases to be employed or
12 to operate independently under the terms of a cooperative
13 agreement or contract for the conduct of any functions in-
14 volved in official inspection under this Act. Renewal of any
15 license may be refused in accordance with section 10 or when-
16 ever the Secretary determines for reasons not involving any
17 alleged incompetency or fault of the licensee that renewal
18 of the license would not effectuate the purposes of this Act.

19 (c) The Secretary may require such examinations and
20 reexaminations as he may deem warranted to determine the
21 competence of any applicants for licenses, licensees, or em-
22 ployees of the Department of Agriculture, to perform any
23 official inspection function under this Act.

24 (d) Persons performing official inspection functions

1 under cooperative agreements or contracts with the Depart-
2 ment of Agriculture shall not, unless otherwise employed by
3 the Federal Government, be deemed to be employees of the
4 Federal Government of the United States.

5 REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,
6 OF LICENSES

7 SEC. 10. The Secretary may refuse to renew, or may
8 suspend or revoke, any license issued under this Act when-
9 ever, after the licensee has had an opportunity to present
10 his views, the Secretary shall determine that such licensee
11 is incompetent, or has inspected grain for purposes of this
12 Act by any standard or criteria other than as provided for
13 in this Act, or has issued, or caused the issuance of, any false
14 or incorrect official certificate or other official form, or has
15 otherwise inspected grain improperly under this Act, or has
16 accepted any money or other consideration, directly or in-
17 directly, for any neglect or improper performance of duty, or
18 has used his license or allowed it to be used for any im-
19 proper purpose, or has otherwise violated any provision of
20 this Act or of the regulations prescribed or instructions
21 issued to him by the Secretary under this Act. The Secre-
22 tary may, without first affording the licensee an opportunity
23 to present his views, suspend any license temporarily pend-

1 ing final determination whenever the Secretary deems such
2 action to be in the best interests of the official inspection
3 system under this Act.

4 REFUSAL OF OFFICIAL INSPECTION

5 SEC. 11. (a) The Secretary may (for such period, or
6 indefinitely, as he deems necessary to effectuate the purposes
7 of this Act) refuse to provide official inspection otherwise
8 available under this Act with respect to any grain offered
9 for inspection, or owned, wholly or in part, by any person
10 if he determines (1) that the individual (or in case such
11 person is a partnership, any general partner; or in case such
12 person is a corporation, any officer, director, or holder or
13 owner of more than 10 per centum of the voting stock; or
14 in case such person is an unincorporated association or other
15 business entity, any officer or director thereof) has been
16 convicted of any violation of section 14 of this Act, or any
17 violation of section 10 of the Federal Trade Commission
18 Act of September 26, 1914, as amended (15 U.S.C. 50),
19 or the provisions of section 1001 of title 18, United States
20 Code, which involved any matter within the scope of this
21 Act, or that official inspection has been refused for any of
22 the above-specified causes (for a period which has not
23 expired) to such person, or any other person conducting
24 a business with which the former was, at the time such
25 cause existed, or is responsibly connected; and (2) that

1 providing official inspection with respect to such grain
2 would be inimical to the integrity of the official inspection
3 service.

4 (b) For purposes of paragraph (a) of this section,
5 a person shall be deemed to be responsibly connected with a
6 business if he was or is a partner, officer, director, holder,
7 or owner of 10 per centum or more of its voting stock, or
8 an employee in a managerial or executive capacity.

9 (c) Before official inspection is refused to any person
10 under paragraph (a) with respect to any grain required
11 to be inspected under section 5 of this Act such person shall
12 be afforded opportunity for a hearing, and before official
13 inspection is refused in all other cases under paragraph (a)
14 the affected person shall be afforded opportunity to present
15 his views.

16 PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

17 SEC. 12. No person licensed or authorized by the Secre-
18 tary to perform any official inspection function under this
19 Act, or employed by the Secretary in otherwise carrying
20 out any of the provisions of this Act, shall, during the term
21 of such license, authorization, or employment, (a) be finan-
22 cially interested (directly or otherwise) in any business
23 entity owning or operating any grain elevator or warehouse
24 or engaged in the merchandising of grain, or (b) be in the
25 employment of, or accept gratuities from, any such entity,

1 or (c) be engaged in any other kind of activity specified
2 by regulation of the Secretary as involving a conflict of
3 interest: *Provided, however,* That the Secretary may license
4 qualified employees of any grain elevators or warehouses to
5 perform official sampling functions, under such conditions as
6 the Secretary may by regulation prescribe, and the Secretary
7 may by regulation provide such other exceptions to the re-
8 strictions of this section as he determines are consistent with
9 the purposes of this Act.

10 RECORDS

11 SEC. 13. (a) Every cooperating inspection agency and
12 every person licensed to perform any official inspection func-
13 tion under this Act shall maintain such samples of officially
14 inspected grain and such other records as the Secretary may
15 by regulation prescribe for the purposes of administration and
16 enforcement of this Act.

17 Every person who makes any shipment from the United
18 States of grain for which inspection is required under section
19 5 of this Act, or who submits grain for inspection under this
20 Act, shall maintain such complete and correct records with
21 respect to the shipment and merchandising of grain to the
22 extent he is concerned therewith as the Secretary may by
23 regulation prescribe for the purposes of administration and
24 enforcement of this Act.

25 (b) Every cooperating inspection agency and other

1 person required to maintain records under this section shall
2 keep such records for a period of two years after the inspec-
3 tion or transaction, which is the subject of the record, oc-
4 curred: *Provided, however,* That the Secretary may prescribe
5 a shorter retention period for grain samples when in his
6 judgment such shorter period is sufficient, or a longer reten-
7 tion period, not to exceed three additional years, for any of
8 such records in specific cases, whenever in his judgment the
9 retention of such records for the longer period is necessary,
10 for the effective administration and enforcement of this Act.

11 (c) Every cooperating inspection agency and other per-
12 son required to maintain records under this section shall
13 permit any authorized representative of the Secretary to
14 have access to, and to copy, such records at all reasonable
15 times.

16 PROHIBITED ACTS

17 SEC. 14. (a) No person shall—

18 (1) knowingly falsely make, issue, alter, forge, or
19 counterfeit any official certificate or other official form or
20 official inspection mark;

21 (2) knowingly utter, publish, or use as true any
22 falsely made, issued, altered, forged, or counterfeited offi-
23 cial certificate or other official form or official inspection
24 mark, or knowingly possess, without promptly notifying
25 the Secretary or his representative, or fail to surrender

1 to such a representative upon demand, any falsely made,
2 issued, altered, forged, or counterfeited official inspection
3 certificate or other official form, or any device for making
4 any official inspection mark or simulation thereof, or
5 knowingly possess any grain in a container bearing any
6 falsely made, issued, altered, forged, or counterfeited
7 official inspection mark without promptly giving such
8 notice;

9 (3) knowingly cause or attempt (whether success-
10 fully or not) to cause the issuance of a false or incorrect
11 official certificate or other official form by any means,
12 including but not limited to deceptive loading, handling,
13 or sampling of grain, or submitting grain for official in-
14 spection knowing that it has been deceptively loaded,
15 handled, or sampled, without disclosing such knowledge
16 to the official inspection personnel before official sam-
17 pling;

18 (4) alter any official sample of grain in any manner
19 or, knowing that an official sample has been altered,
20 thereafter represent it as an official sample;

21 (5) knowingly use any official grade designation or
22 official inspection mark on any container of grain by
23 means of a tag, label, or otherwise, unless the grain in
24 such container was officially inspected on the basis of an
25 official sample taken while the grain was being loaded

1 into or was in such container and the grain was found to
2 qualify for such designation or mark;

3 (6) knowingly make any false representation that
4 any grain has been officially inspected, or officially in-
5 spected and found to be of a particular kind, class, qual-
6 ity, condition, or quantity, or that particular facts have
7 been established with respect to grain by official in-
8 spection under this Act;

9 (7) improperly influence, or attempt to improperly
10 influence, any official inspection personnel or any officer
11 or employee of the Department of Agriculture with re-
12 spect to the performance of his duties under this Act;

13 (8) forcibly assault, resist, oppose, impede, intimi-
14 date, or interfere with any official inspection personnel
15 or any officer or employee of the Department of Agri-
16 culture in, or on account of, the performance of his
17 duties under this Act;

18 (9) falsely represent that he is licensed or author-
19 ized to perform an official inspection function under this
20 Act;

21 (10) use any false or misleading means in connec-
22 tion with the making or filing of an application for
23 official inspection; or

24 (11) violate any provision of section 5, 6, 9, 12, or
25 13 of this Act.

1 (b) No person licensed or authorized to perform any
2 function under this Act shall—

3 (1) commit any offense prohibited by subsection
4 (a) ;

5 (2) knowingly perform improperly any official
6 sampling or other official inspection function under this
7 Act;

8 (3) knowingly execute or issue any false or incor-
9 rect official certificate or other official form; or

10 (4) accept money or other consideration, directly
11 or indirectly, for any neglect or improper performance of
12 duty.

13 (c) An offense shall be deemed to have been committed
14 knowingly under this Act if it resulted from gross negligence
15 or a failure to make a reasonable effort to ascertain the
16 pertinent facts, or was otherwise committed with knowledge
17 of such facts.

18 PENALTIES

19 SEC. 15. (a) Any person who commits any offense
20 prohibited by section 14 shall be guilty of a misdemeanor
21 and shall, on conviction thereof, be subject to imprisonment
22 for not more than six months, or a fine of not more than
23 \$3,000, or both such imprisonment and fine; but if such
24 offense is committed after one conviction of such person
25 under this section has become final, such person shall be

1 subject to imprisonment for not more than one year, or a fine
2 of not more than \$5,000, or both such imprisonment and
3 fine.

4 (b) Nothing in this Act shall be construed as requiring
5 the Secretary to report minor violations of this Act for
6 criminal prosecution whenever he believes that the public
7 interest will be adequately served by a suitable written notice
8 or warning.

9 RESPONSIBILITY FOR ACTS OF OTHERS

10 SEC. 16. When administering and enforcing the pro-
11 visions of this Act, the knowledge, act, omission, or failure
12 of any person employed by or acting for any other person,
13 within the scope of his employment or agency, shall, in every
14 case, be deemed the knowledge, act, omission, or failure of
15 the latter person as well as that of the former.

16 GENERAL AUTHORITIES

17 SEC. 17. The Secretary is authorized to conduct such in-
18 vestigations, hold such hearings, require such reports from
19 any cooperating inspection agency or any person, and pre-
20 scribe such rules and regulations as he deems necessary to
21 effectuate the purposes or provisions of this Act. Whether
22 any certificate, other form, representation, designation, or
23 other description is false, incorrect, or misleading within the
24 meaning of this Act shall be determined by tests made in
25 accordance with such procedures as the Secretary may adopt

1 to effectuate the objectives of this Act, if the relevant facts are
2 determinable by such tests. Proceedings under section 10 or
3 11 of this Act for refusal to renew, or for suspension or rev-
4 ocation of, a license, or for refusal of official inspection
5 service not required by section 5 of this Act, shall not be
6 subject to the administrative procedure provisions in sections
7 556 and 557 of title 5, United States Code.

SEC. 18. (a) For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914 (38 Stat. 721-723), as amended (15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of paragraph 409 (1) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (1)) are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person as defined in this Act with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections

1 9 and 10 of the Act of September 26, 1914, as amended, on
2 the district courts of the United States may be exercised for
3 the purposes of this Act by any court designated in para-
4 graph (b) of this section.

5 (b) The United States District Courts, the District
6 Court of Guam, the District Court of the Virgin Islands, the
7 highest court of American Samoa, and the United States
8 courts of the other territories and possessions of the United
9 States shall have jurisdiction in cases arising under this Act.

10 RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF
11 PROVISIONS

12 SEC. 19. (a) No State or subdivision thereof may re-
13 quire the inspection or description in accordance with any
14 standards of kind, class, quality, condition or other character-
15 istics of grain as a condition of shipment, or sale, of such grain
16 in interstate or foreign commerce, or require any license for,
17 or impose any other restrictions upon, the performance of any
18 official inspection function under this Act by official inspection
19 personnel. Otherwise nothing in this Act shall invalidate any
20 law or other provision of any State or subdivision thereof in
21 the absence of a conflict with this Act.

22 (b) If any provision of this Act or the application
23 thereof to any person or circumstances is held invalid, the
24 validity of the remainder of the Act and of the application of

1 such provision to other persons and circumstances shall not
2 be affected thereby.

3 APPROPRIATIONS

4 SEC. 20. There are hereby authorized to be appropriated
5 such sums as are necessary to carry out the provisions of this
6 Act to the extent that financing is not obtained from the fees
7 and sale of samples as provided for in section 7 of this Act.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 20, 1967.

Hon. HUBERT H. HUMPHREY,
President, U.S. Senate.

DEAR MR. HUMPHREY: There is enclosed a proposed bill to modernize the United States Grain Standards Act, as amended (7 U.S.C. 71-87).

When enacted in 1916, the Act eliminated the confusion resulting from the use of many different sets of grain standards applied by many different grain inspection organizations without national coordination and supervision. The Act, in general, provided for the establishment of official U.S. grain standards of quality and condition, required that grain sold by grade and shipped in interstate or foreign commerce be sold by an official grade fixed in such standards, prohibited description of grain shipped in such commerce as being of any grade other than one fixed for such grain in the standards, required that grain sold by grade and shipped in interstate or foreign commerce from or to a place where a licensed inspector was located be inspected and graded by a licensed inspector, provided for the licensing of grain inspectors to inspect and certify the grade of grain for shipment in interstate or foreign commerce, provided administrative sanctions for selling grain in interstate or foreign commerce under a false or misleading name or description and similar offenses, and provided criminal penalties for knowing grading grain improperly or issuing false certificates of grade and certain other offenses. The Act was amended in 1956 to provide criminal penalties for knowingly sampling grain improperly or knowingly or willfully causing or attempting to cause the issuance of false or incorrect certificates of grade by deceptive loading, handling, or sampling of grain, or by any other means.

The proposed bill would, in general, continue the present U.S. standards for grain, improve the national grain inspection system by authorizing additional inspection services under the Act, eliminate certain requirements which appear to be a burden on interstate commerce and which are apparently no longer needed by the commercial grain trade, strengthen the requirements for export grain, make certain activities self-funding, provide for entering into cooperative agreements and contracts with official inspection agencies and others, and strengthen the prohibitions to further protect the integrity of the national grain inspection system.

The bill would authorize the establishment of national standards similar to those established under the present Act, and would authorize the utilization of additional criteria in the standards for measuring characteristics of grain. The standards now established would be continued in effect under the amended Act unless modified by the Secretary.

Since the Act was passed in 1916, grain merchandising practices have changed greatly. Domestic traders are more knowledgeable and specification buying is more common. As a result, reference to official grades and official inspection is not desired in many of today's commercial transactions in domestic commerce. There is, therefore, no logical justification for continuing the requirement that grain sold by grade in domestic commerce be sold only by an official grade and be officially inspected. The needs of the trade, rather than Federal law, should determine when official grain grades and inspection are used for such commerce. This is now true for rice, beans, eggs, dairy products, fruits, vegetables, and most other agricultural commodities.

Since the Act was passed, grain transportation methods have also changed greatly. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade even though official inspection of much of such grain is technically required by the Act. To provide official inspection for trucklot grain would require stationing official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandising the grain and would apparently serve no useful purpose to the trade. Furthermore, it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under special point-to-point rates. It is also

discriminatory to require the official inspection of grain shipped from or to a place where a licensed inspector is located and not require the official inspection of grain shipped from or to other points. Therefore, the inspection of grain in domestic commerce should be entirely on a permissive or voluntary basis in accordance with the needs of the trade.

Accordingly, the proposed bill would not require the use of official grades or official inspection for grain in domestic commerce, although the bill would authorize the inspection of such grain, as well as other grain, upon request of interested persons.

Since 1916, the exportation of U.S. grain has shown a substantial increase. Much of our grain production is now shipped to foreign markets. Because of the importance of grain exports to the economy of the United States, because of the complexities of international trading, and because many foreign buyers rely solely on the U.S. grain standards for expressing their quality needs, export grain that is sold, or offered or consigned for sale, by grade, should be required to be officially inspected at the time the grain is loaded in the export carrier. Accordingly, the proposed bill would require that such export grain be officially inspected at the time of loading and that the inspection certificates be forwarded promptly to the buyers in order to facilitate international trade. It would also require the use of official grade designations in describing the grade of grain in connection with its sale for shipment from the United States. These requirements are not intended to impose an unreasonable restriction on international trade.

The proposed bill would restrict the licensing of personnel to perform official sampling or other inspection functions to individuals employed or operating independently under a cooperative agreement between the Secretary and State or other inspection agencies or persons, or operating under a contract with this Department for the performance of functions such as sampling. To avoid undesirable competition between inspection agencies, not more than one cooperative agreement would be effective at any one time in a city, town, or other area covered by any cooperative agreement. In areas where grain inspection was needed and not otherwise available from State or other inspection agencies or persons under cooperative agreements, the service would, when practical, be performed by Federal employees and contract licensees. Licenses now in effect or issued under the amended provisions of the Act would terminate every three years at times fixed by regulation of the Secretary.

Provision is made in the bill for refusal of renewal, and for suspension or revocation, of licenses for specified causes after the licensee is afforded opportunity to present his views. Provision is also made for refusal to provide official inspection service under certain circumstances, including opportunity for a formal hearing under the administrative procedure provisions in 5 U.S.C. 556 and 557 in the case of inspection service required under the Act, and opportunity to present views in other cases. The provisions for presentation of views contemplate informal procedures, not subject to 5 U.S.C. 556 and 557, which could vary, depending upon the type of action under consideration and the reason therefor. For example, in a proceeding to refuse the renewal of an inspector's license on grounds of incompetency, based on the failure of the inspector to pass an examination under subsection 9(c) of the bill, the procedure would consist of notice of such failure and of the proposed action and an opportunity for the inspector to state his views briefly in writing. More extensive procedures, including oral hearing, would be provided when deemed necessary in other types of cases, such as proceedings for denial of permissive or voluntary inspection service.

The bill also would close several loopholes in the regulatory features of the present Act to further protect the integrity of the grain inspection systems; e.g., it contains various new prohibitions, including a prohibition against knowingly making false representations that grain has been inspected under the Act. The use of an official grade designation such as U.S. No. 1 Durum wheat, would not in itself be deemed to constitute a representation that grain has been officially inspected, within this prohibition. However, the knowing use of an official grade designation on a container of grain would be prohibited by another provision of the bill unless the grain in the container was officially inspected as required by the bill.

The bill would provide for issuance of rules and regulations to effectuate the purposes of the Act. It is contemplated that inspection procedures and inspection

equipment would be prescribed by the Secretary to achieve uniform inspection results.

The bill would have no adverse effect on operations under the Commodity Exchange Act or the United States Warehouse Act, or on the uniform grain storage agreements under the Commodity Credit Corporation price-support programs. Official inspection under the official standards could be required under the uniform grain storage agreements or in any commercial contract in exactly the same manner as at present. Industry and Government costs would be reduced without impairing the usefulness of the national standards or the grain inspection system.

Under the present statute the inspection of grain by licensed grain inspectors has been financed by fees charged by such licensees to the user of the service. Annual appropriations have been provided to cover the cost of the Federal activities under the Act with the exception of the cost of overtime, night and holiday work which was made self-funding in 1958 by an amendment of section 6 of the Act. Also the cost of appeal inspections has been borne by the users of the service.

In accordance with the policy of the administration of charging users for special benefit services, the proposed bill authorizes the collection of reasonable fees to cover the estimated total costs of official inspection services if the inspection is performed by employees of the Department or by contract licensees. It is contemplated that the fees would be reasonable and equal as nearly as practicable to the costs of furnishing the services, including the cost of overtime, night and holiday work (after taking into consideration any proceeds from the sale of samples). No provision is made for the Department to share in the fees collected by licensed inspectors for inspections performed by them under cooperative agreements.

Based on present workload estimates, fees collected from appeal inspection services performed by employees of the Department and money obtained from the sale of surplus Federal samples of grain will amount to about \$782,000 in fiscal year 1967. Of this amount, \$682,000 is to be deposited into miscellaneous receipts in the Treasury and \$100,000 deposited as a reimbursement to the appropriation. Under the proposed bill, if the amount of grain inspected should continue at its present level, this total revenue of approximately \$782,000 would be deposited in a fund which would be made directly available for financing these "special benefit" services. All fees collected for other inspections performed by Department employees or contract licensees under the bill would also be deposited in such fund. A net cost to the Government of about \$2.2 million would be financed from appropriated funds. Reductions in Federal employment would occur to the extent that more effective inspection arrangements can be adopted or that the volume of inspected grain declines under a voluntary domestic program.

A summary of the proposed changes is also enclosed for your convenience.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

90TH CONGRESS
2D SESSION

H. R. 15794

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1968

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To provide for United States standards and a national inspection system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting
4 of part B of "An Act Making appropriations for the De-
5 partment of Agriculture for the fiscal year ending June
6 thirtieth, nineteen hundred and seventeen, and for other
7 purposes", approved August 11, 1916 (39 Stat. 446, at
8 482), as amended (7 U.S.C. 71-87), is hereby amended
9 to read as follows:

II

1 "SHORT TITLE

2 "SECTION 1. This Act may be cited as the 'United
3 States Grain Standards Act'.

4 "DECLARATION OF POLICY

5 "SEC. 2. Grain is an essential source of the world's total
6 supply of human food and animal feed and is merchandised
7 in interstate and foreign commerce. It is declared to be the
8 policy of the Congress, for the promotion and protection of
9 such commerce in the interests of producers, merchandisers,
10 warehousemen, processors, and consumers of grain, and the
11 general welfare of the people of the United States, to provide
12 for the establishment of official United States standards for
13 grain, to promote the uniform application thereof by official
14 inspection personnel, and to provide for an official inspection
15 system for grain; with the objectives that grain may be
16 marketed in an orderly manner and that trading in grain
17 may be facilitated.

18 "DEFINITIONS

19 "SEC. 3. When used in this Act, except where the con-
20 text requires otherwise—

21 "(a) the term 'Secretary' means the Secretary of
22 Agriculture of the United States or his delegates;

23 "(b) The term 'Department of Agriculture' means
24 the United States Department of Agriculture;

1 “(c) the term ‘person’ means any individual, part-
2 nership, corporation, association, or other business entity ;

3 “(d) the term ‘United States’ means the States
4 (including Puerto Rico) and the territories and posses-
5 sions of the United States (including the District of
6 Columbia) ;

7 “(e) the term ‘State’ means any one of the States
8 (including Puerto Rico) or territories or possessions of
9 the United States (including the District of Columbia) ;

10 “(f) the term ‘interstate or foreign commerce’
11 means commerce from any State to or through any
12 other State, or to or through any foreign country ;

13 “(g) the term ‘grain’ means corn, wheat, rye, oats,
14 barley, flaxseed, grain sorghum, soybeans, mixed grain,
15 and any other food grains, feed grains, and oilseeds for
16 which standards are established under section 4 of this
17 Act.

18 “(h) the term ‘export grain’ means grain for ship-
19 ment from the United States to any place outside thereof ;

20 “(i) the term ‘official inspection’ means the deter-
21 mination and the certification, by official inspection per-
22 sonnel, of the kind, class, quality, condition, or quantity
23 of sacks of grain, under standards provided for in this
24 Act or, upon request of the interested person applying

1 for inspection, other criteria approved by the Secretary
2 under this Act (the term ‘officially inspected’ shall be
3 construed accordingly) ;

4 “(j) the term ‘official inspection personnel’ means
5 employees of State or other governmental agencies or
6 commercial agencies or other persons who are licensed
7 to perform all or specified functions involved in official
8 inspection under this Act; employees of the Department
9 of Agriculture who are authorized to supervise official
10 inspection and to conduct appeal inspection or initial
11 inspection of United States grain in Canadian ports;

12 “(k) the term ‘official inspection mark’ means any
13 symbol prescribed by regulations of the Secretary to
14 show the official determination of the kind, class, qual-
15 ity, condition, or quantity of, or other facts relating to
16 grain, under standards provided for in this Act or, upon
17 request of the interested person applying for inspection,
18 other criteria approved by the Secretary under this Act;

19 “(l) the term ‘official grade designation’ means
20 a numerical or sample grade designation, specified in
21 the standards provided for in this Act;

22 “(m) the term ‘official inspection agency’ means
23 the agency or person located at an inspection point
24 designated by the Secretary for the conduct of official
25 inspection under this Act;

5

1 “(n) the term ‘official certificate’ and ‘official form’
2 mean, respectively, a certificate or other form prescribed
3 by regulations of the Secretary under this Act;

4 “(o) the term ‘official sample’ means a sample ob-
5 tained from a lot of grain by, and submitted for official
6 inspection by, official inspection personnel (the term
7 ‘official sampling’ shall be construed accordingly);

8 “(p) the term ‘submitted sample’ means a sample
9 submitted by or for an interested person for official in-
10 spection, other than an official sample;

11 “(q) the term ‘lot’ means a specific quantity of
12 grain identified as such;

13 “(r) the term ‘interested person’ means any person
14 having a contract or other financial interest in grain as
15 the owner, seller, purchaser, warehouseman, or carrier,
16 or otherwise;

17 “(s) the verb ‘ship’ with respect to grain means
18 transfer physical possession of the grain to another per-
19 son for the purpose of transportation by any means of
20 conveyance, or transport one’s own grain by any means
21 of conveyance;

22 “(t) the terms ‘false’, ‘incorrect’, and ‘misleading’
23 mean, respectively, false, incorrect, and misleading in any
24 particular;

6 "STANDARDS

15 “ (b) Before establishing, amending, or revoking any
16 standards under this Act, the Secretary shall publish notice
17 of the proposal and give interested persons opportunity to
18 submit data, views, and arguments thereon and, upon re-
19 quest, an opportunity to present data, views, and argu-
20 ments orally in an informal manner. No standards established
21 or amendments or revocations of standards under this Act
22 shall become effective less than one calendar year after pro-
23 mulgation thereof, unless in the judgment of the Secretary,
24 the public health, interest, or safety require that they become
25 effective sooner.

3 “SEC. 5. Whenever standards are effective under section
4 4 of this Act for any grain, no person shall ship from
5 the United States to any place outside thereof any lot of
6 such grain that is sold, offered for sale, or consigned for sale
7 by grade, unless such lot is officially inspected in accord-
8 ance with such standards on the basis of official samples taken
9 after final elevation as the grain is being loaded abroad,
10 or while it is in, the final carrier in which it is to be trans-
11 ported from the United States, and unless a valid official cer-
12 tificate showing the official grade designation of the lot of
13 grain is promptly furnished by the shipper, or his agent, to
14 the consignee with the bill of lading or other shipping
15 documents covering the shipment: *Provided, however,* That
16 the Secretary may waive any requirement of this section
17 with respect to shipments from or to any area or any other
18 class of shipments when in his judgment it is impracticable
19 to provide official inspection with respect to such shipments.

23 “SEC. 6. (a) Whenever standards are effective under
24 section 4 of this Act for any grain no person shall in any
25 sale, offer for sale, or consignment for sale, which involves

1 the shipment of such grain in interstate or foreign commerce,
2 describe such grain as being of any grade in any advertising,
3 price quotation, other negotiation of sale, contract of sale,
4 invoice, bill of lading, other document, or description on bags
5 or other containers of the grain, other than by an official
6 grade designation, with or without additional information as
7 to specified factors: *Provided*, That, with respect to inter-
8 state commerce, the description of such grain by any proprie-
9 tary brand name or trademark that does not resemble an
10 official grade designation, or by the use of one or more grade
11 factor designations set forth in the official United States
12 standards for grain, or by other factor information shall not
13 be deemed to be a description of grain as being of any grade.

14 “(b) No person shall, in any sale, offer for sale, or
15 consignment for sale, of any grain which involves the ship-
16 ment of such grain from the United States to any place out-
17 side thereof, knowingly describe such grain by any official
18 grade designation, or other description, which is false or
19 misleading.

20 “OFFICIAL INSPECTION AUTHORITY AND FUNDING

21 “SEC. 7. (a) The Secretary is authorized to cause official
22 inspection under the standards provided for in section 4 of
23 this Act to be made of all grain required to be officially in-
24 spected as provided in section 5 of this Act, in accordance
25 with such regulations as he may prescribe.

1 “(b) The Secretary is further authorized, upon request
2 of any interested person, and under such regulations as he
3 may prescribe, to cause official inspection to be made with
4 respect to any grain whether by official sample, submitted
5 sample, or otherwise within the United States or with respect
6 to United State grain in Canadian ports under standards
7 provided for in section 4 of this Act, or, upon request of
8 the interested person, under other criteria approved by the
9 Secretary for determining the kind, class, quality, condition,
10 or quantity of, or other facts relating to, grain, whenever in
11 his judgment providing such service will effectuate any of
12 the objectives stated in section 2 of this Act.

13 “(c) The regulations prescribed by the Secretary under
14 this Act shall include provisions for reinspections and appeal
15 inspections; cancellation of certificates superseded by re-
16 inspections and appeal inspections. The Secretary may pro-
17 vide by regulation that samples obtained by or for employees
18 of the Department of Agriculture for purposes of official in-
19 spection shall become the property of the United States, and
20 such samples may be disposed of without regard to the pro-
21 visions of the Federal Property and Administrative Services
22 Act of 1949, as amended (40 U.S.C. 471 et seq.).

23 “(d) Certificates issued and not canceled under this
24 Act shall be received by all officers and all courts of the

1 United States as prima facie evidence of the truth of the
2 facts stated therein.

3 “(e) The Secretary may, under such regulations as
4 he may prescribe, charge and collect reasonable fees to cover
5 the estimated total cost of official inspection except when the
6 inspection is performed by employees of an official inspection
7 agency. The fees authorized by this paragraph shall, as
8 nearly as practicable and after taking into consideration any
9 proceeds from the sale of samples, cover the costs of the
10 Department of Agriculture incident to the performance of
11 appeal and Canadian port inspection services for which the
12 fees are collected, including supervisory and administrative
13 costs. Such fees, and the proceeds from the sale of samples
14 obtained for purposes of official inspection which become the
15 property of the United States, shall be deposited into the
16 United States Treasury as miscellaneous receipts.

17 “(f) Not more than one inspection agency for carrying
18 out the provisions of this section shall be operative at one
19 time for any one city, town, or other area.

20 “LICENSES AND AUTHORIZATIONS

21 “SEC. 8. (a) The Secretary is authorized to issue a
22 license to any individual upon presentation to him of satis-
23 factory evidence that such individual is competent, and is
24 employed by an official inspection agency to perform all or
25 specified functions involved in official inspection; to author-

1 ize any competent employee of the Department of Agri-
2 culture to perform all or specified functions involved in
3 supervisory or appeal inspection or initial inspection of
4 United States grain in Canadian ports; and to license any
5 other competent individual to perform specified functions
6 involved in official inspection under a contract with the De-
7 partment of Agriculture. No person shall perform any official
8 inspection functions for purposes of this Act unless he holds
9 an unsuspended and unrevoked license or authorization from
10 the Secretary under this Act.

11 “(b) All classes of licenses issued under this Act shall
12 terminate triennially on a date or dates to be fixed by regu-
13 lation of the Secretary: *Provided*, That any license shall
14 be suspended automatically when the licensee ceases to be
15 employed by an official inspection agency or to operate
16 independently under the terms of a contract for the conduct
17 of any functions involved in official inspection under this
18 Act: *Provided further*, That subject to paragraph (c) of this
19 section, such license shall be reinstated if the licensee is
20 employed by an official inspection agency or resumes opera-
21 tion under such a contract within one year of the suspension
22 date and the license has not expired in the interim.

23 “(c) The Secretary may require such examinations and
24 reexaminations as he may deem warranted to determine the
25 competence of any applicants for licenses, licensees, or em-

1 ployees of the Department of Agriculture, to perform any
2 official inspection function under this Act.

3 “(d) Persons employed by an official inspection agency
4 and persons performing official inspection functions under
5 contracts with the Department of Agriculture shall not, unless
6 otherwise employed by the Federal Government, be deemed
7 to be employees of the Federal Government of the United
8 States.

9 “REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,
10 OF LICENSES

11 “SEC. 9. The Secretary may refuse to renew, or may
12 suspend or revoke, any license issued under this Act when-
13 ever, after the licensee has been afforded an opportunity for
14 a hearing, the Secretary shall determine that such licensee is
15 incompetent, or has inspected grain for purposes of this Act
16 by any standard or criteria other than as provided for in this
17 Act, or has issued, or caused the issuance of, any false or
18 incorrect official certificate or other official form, or has other-
19 wise inspected grain improperly under this Act, or has
20 accepted any money or other consideration, directly or indi-
21 rectly, for any neglect or improper performance of duty, or
22 has used his license or allowed it to be used for any improper
23 purpose, or has otherwise violated any provision of this Act
24 or of the regulations prescribed or instructions issued to him
25 by the Secretary under this Act. The Secretary may, without

1 first affording the licensee an opportunity for a hearing, sus-
2 pend any license temporarily pending final determination
3 whenever the Secretary deems such action to be in the best
4 interests of the official inspection system under this Act.

5 "REFUSAL OF OFFICIAL INSPECTION

6 "SEC. 10. (a) The Secretary may (for such period,
7 or indefinitely, as he deems necessary to effectuate the pur-
8 poses of this Act) refuse to provide official inspection other-
9 wise available under the Act with respect to any grain offered
10 for inspection, or owned, wholly or in part, by any person if
11 he determines (1) that the individual (or in case such per-
12 son is a partnership, any general partner; or in case such
13 person is a corporation, any officer, director, holder, or
14 owner of more than 10 per centum of the voting stock; or
15 in case such person is an unincorporated association or other
16 business entity, any officer or director thereof) has been
17 convicted of any violation of section 13 of this Act, or that
18 official inspection has been refused for any of the above-
19 specified causes (for a period which has not expired) to such
20 person, or any other person conducting a business with which
21 the former was, at the time such cause existed, or is respon-
22 sibly connected; and (2) that providing official inspection
23 with respect to such grain would be inimical to the integrity
24 of the official inspection service.

1 “(b) For purposes of paragraph (a) of this section, a
2 person shall be deemed to be responsibly connected with a
3 business if he was or is a partner, officer, director, holder, or
4 owner of 10 per centum or more of its voting stock, or an
5 employee in a managerial or executive capacity.

6 “(c) Before official inspection is refused to any person
7 under paragraph (a), such person shall be afforded oppor-
8 tunity for a hearing.

9 “PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

10 “SEC. 11. No person licensed or authorized by the Sec-
11 retary to perform any official inspection function under this
12 Act, or employed by the Secretary in otherwise carrying out
13 any of the provisions of this Act, shall, during the term of
14 such license, authorization, or employment, (a) be finan-
15 cially interested (directly or otherwise) in any business
16 entity owning or operating any grain elevator or warehouse
17 or engaged in the merchandising of grain, or (b) be in the
18 employment of, or accept gratuities from, any such entity, or
19 (c) be engaged in any other kind of activity specified by
20 regulation of the Secretary as involving a conflict of interest:
21 *Provided, however,* That the Secretary may license qualified
22 employees of any grain elevators or warehouses to perform
23 official sampling functions, under such conditions as the Sec-
24 retary may by regulation prescribe, and the Secretary may
25 by regulation provide such other exceptions to the restrictions

1 of this section as he determines are consistent with the pur-
2 poses of this Act.

3 "RECORDS

4 "SEC. 12. (a) Every official inspection agency and
5 every person licensed to perform any official inspection func-
6 tion under this Act shall maintain such samples of officially
7 inspected grain and such other records as the Secretary may
8 by regulation prescribe for the purpose of administration and
9 enforcement of this Act.

10 "(b) Every official inspection agency required to main-
11 tain records under this section shall keep such records for a
12 period of two years after the inspection or transaction, which
13 is the subject of the record, occurred: *Provided, however,*
14 That grain samples shall be required to be maintained only
15 for such period not in excess of ninety days as the Secretary
16 shall prescribe; and in specific cases other records may be
17 required by the Secretary to be maintained for not more than
18 three years in addition to said two-year period whenever in
19 his judgment the retention of such records for the longer
20 period is necessary for the effective administration and en-
21 forcement of this Act.

22 "(c) Every official inspection agency required to main-
23 tain records under this section shall permit any authorized
24 representative of the Secretary to have access to, and to copy,
25 such records at all reasonable times.

1 “PROHIBITED ACTS

2 “SEC. 13. (a) No person shall—

3 “(1) knowingly falsely make, issue, alter, forge, or
4 counterfeit any official certificate or other official form or
5 official inspection mark;

6 “(2) knowingly utter, publish, or use as true any
7 falsely made, issued, altered, forged, or counterfeited
8 official certificate or other official form or official inspec-
9 tion mark, or knowingly possess, without promptly noti-
10 fying the Secretary or his representative, or fail to sur-
11 render to such a representative upon demand, any falsely
12 made, issued, altered, forged, or counterfeited official
13 inspection certificate or other official form, or any device
14 for making any official inspection mark or simulation
15 thereof, or knowingly possess any grain in a container
16 bearing any falsely made, issued, altered, forged, or
17 counterfeited official inspection mark without promptly
18 giving such notice;

19 “(3) knowingly cause or attempt (whether suc-
20 cessfully or not) to cause the issuance of a false or incor-
21 rect official certificate or other official form by any means,
22 including but not limited to deceptive loading, handling,
23 or sampling of grain, or submitting grain for official
24 inspection knowing that it has been deceptively loaded,
25 handled, or sampled, without disclosing such knowledge

1 to the official inspection personnel before official
2 sampling;

3 “(4) alter any official sample of grain in any
4 manner or, knowing that an official sample has been
5 altered, thereafter represent it as an official sample;

6 “(5) knowingly use any official grade designation
7 or official inspection mark on any container of grain
8 by means of a tag, label, or otherwise, unless the grain
9 in such container was officially inspected on the basis of
10 an official sample taken while the grain was being loaded
11 into or was in such container and the grain was found
12 to qualify for such designation or mark;

13 “(6) knowingly make any false representation that
14 any grain has been officially inspected, or officially
15 inspected and found to be of a particular kind, class,
16 quality, condition, or quantity, or that particular facts
17 have been established with respect to grain by official
18 inspection under this Act;

19 “(7) improperly influence, or attempt to improp-
20 erly influence, any official inspection personnel or any
21 officer or employee of the Department of Agriculture
22 with respect to the performance of his duties under this
23 Act;

24 “(8) forcibly assault, resist, oppose, impede, intimi-
25 date, or interfere with any official inspection personnel

1 or any officer or employee of the Department of Agriculture
2 in, or on account of, the performance of his duties
3 under this Act;

4 “(9) falsely represent that he is licensed or authorized
5 to perform an official inspection function under
6 this Act;

7 “(10) use any false or misleading means in connection
8 with the making or filing of an application for
9 official inspection; or

10 “(11) violate any provision of section 5, 6, 8, 11,
11 or 12 of this Act.

12 “(b) No person licensed or authorized to perform any
13 function under this Act shall—

14 “(1) commit any offense prohibited by subsection
15 (a) ;

16 “(2) knowingly perform improperly any official
17 sampling or other official inspection function under this
18 Act;

19 “(3) knowingly execute or issue any false or
20 incorrect official certificate or other official form; or

21 “(4) accept money or other consideration, directly
22 or indirectly, for any neglect or improper performance
23 of duty.

24 “(c) An offense shall be deemed to have been com-
25 mitted knowingly under this Act if it resulted from gross

1 negligence or was committed with knowledge of the perti-
2 nent facts.

3 “PENALTIES

4 “SEC. 14. (a) Any person who commits any offense
5 prohibited by section 13 shall be guilty of a misdemeanor
6 and shall, on conviction thereof, be subject to imprisonment
7 for not more than six months, a fine of not more than
8 \$3,000 or both such imprisonment and fine; but if such
9 offense is committed after one conviction of such person
10 under this section has become final, such person shall be
11 subject to imprisonment for not more than one year, or a
12 fine of not more than \$5,000, or both such imprisonment and
13 fine.

14 “(b) Nothing in this Act shall be construed as requiring
15 the Secretary to report minor violations of this Act for
16 criminal prosecution whenever he believes that the public
17 interest will be adequately served by a suitable written
18 notice or warning.

19 “RESPONSIBILITY FOR ACTS OF OTHERS

20 “SEC. 15. When construing and enforcing the provisions
21 of this Act, the act, omission, or failure of any official,
22 agent, or other person acting for or employed by any asso-
23 ciation, partnership, or corporation within the scope of his
24 employment or office shall, in every case, also be deemed

1 the act, omission, or failure of such association, partnership,
2 or corporation as well as that of the person.

3 "GENERAL AUTHORITIES

4 "SEC. 16. The Secretary is authorized to conduct such
5 investigations, hold such hearings, require such reports from
6 any official inspection agency or any person, and prescribe
7 such rules and regulations as he deems necessary to effectuate
8 the purposes or provisions of this Act. Whether any certificate,
9 other form, representation, designation, or other
10 description is false, incorrect, or misleading within the meaning
11 of this Act shall be determined by tests made in accordance
12 with such procedures as the Secretary may adopt to effectuate
13 the objectives of this Act, if the relevant facts are determinable
14 by such tests. Proceedings under section 9 or 10 of this Act for
15 refusal to renew, or for suspension or revocation of, a license,
16 or for refusal of official inspection service not required by
17 section 5 of this Act, shall not, unless requested by the respondent,
18 be subject to the administrative procedure provisions in sections 554,
19 556, and 557 of title 5, United States Code.

21 "ENFORCEMENT PROVISIONS

22 "SEC. 17. (a) For the purposes of this Act, the Secretary
23 shall at all reasonable times have access to, for the purpose of
24 examination, and the right to copy any documentary evidence
25 of any person with respect to whom such authority

21

1 is exercised; and the Secretary shall have power to require
2 by subpoena the attendance and testimony of witnesses and
3 the production of all such documentary evidence relating to
4 any matter under investigation, and may administer oaths
5 and affirmations, examine witnesses, and receive evidence.

6 “(b) Such attendance of witnesses, and the production
7 of such documentary evidence, may be required from any
8 place in the United States, at any designated place of hear-
9 ing. In case of disobedience to a subpoena the Secretary may
10 invoke the aid of any court designated in paragraph (h) of
11 this section in requiring the attendance and testimony of
12 witnesses and the production of documentary evidence.

13 “(c) Any such court within the jurisdiction of which
14 such inquiry is carried on may, in case of contumacy or
15 refusal to obey a subpoena issued to any person, issue an order
16 requiring such person to appear before the Secretary or to
17 produce documentary evidence if so ordered, or to give evi-
18 dence touching the matter in question; and any failure to
19 obey such order of the court may be punished by such court
20 as a contempt thereof.

21 “(d) Witnesses summoned before the Secretary shall
22 be paid the same fees and mileage that are paid witnesses
23 in the courts of the United States, and witnesses from
24 depositions are taken and the persons taking the same shall

1 severally be entitled to the same fees as are paid for like
2 services in the courts of the United States.

3 “(e) Any person who shall neglect or refuse to attend
4 and testify, or to answer any lawful inquiry, or to produce
5 documentary evidence, if in his power to do so, in obedience
6 to the subpoena or lawful requirement of the Secretary, shall
7 be guilty of a misdemeanor, and upon conviction thereof be
8 subject to the penalties set forth in section 14 of this Act.

9 “(f) No person shall be excused from attending and
10 testifying or from producing documentary evidence before
11 the Secretary, or in obedience to the subpoena of the Secre-
12 tary, or in any cause or proceeding, criminal or otherwise,
13 based upon or growing out of any alleged violation of this
14 Act, or of any amendments thereto, on the ground or for the
15 reason that the testimony or evidence, documentary or other-
16 wise, required of him may tend to incriminate him or subject
17 him to a penalty or forfeiture; but no individual shall be
18 prosecuted or subjected to any penalty or forfeiture for or on
19 account of any transaction, matter, or thing concerning which
20 he is compelled, after having claimed his privilege against
21 self-incrimination, to testify or produce evidence, documen-
22 tary or otherwise, except that any individual so testifying
23 shall not be exempt from prosecution and punishment for
24 perjury committed in so testifying.

25 “(g) Any officer or employee of the Department of

1 Agriculture who shall make public any information obtained
2 under this Act by the Department of Agriculture, without its
3 authority, unless directed by the court, shall be guilty of a
4 misdemeanor, and upon conviction thereof be subject to the
5 penalties set forth in section 14 of this Act.

6 “(h) The United States district courts, the District
7 Court of Guam, the District Court of the Virgin Islands, the
8 highest court of American Samoa, and the United States
9 courts of the other territories and possessions of the United
10 States shall have jurisdiction in cases arising under this Act.

11 “RELATION TO STATE AND LOCAL LAWS; SEPARABILITY
12 OF PROVISIONS

13 “SEC. 18. (a) No State or subdivision thereof may re-
14 quire the inspection or description in accordance with any
15 standards of kind, class, quality, condition, or other char-
16 acteristics of grain as a condition of shipment, or sale, of such
17 grain in interstate or foreign commerce, or require any
18 license for, or impose any other restrictions upon, the per-
19 formance of any official inspection function under this Act
20 by official inspection personnel. Otherwise nothing in this
21 Act shall invalidate any law or other provision of any State
22 or subdivision thereof in the absence of a conflict with this
23 Act.

24 “(b) If any provision of this Act or the application
25 thereof to any person or circumstances is held invalid, the

1 validity of the remainder of the Act and of the application
2 of such provision to other persons and circumstances shall not
3 be affected thereby.

4 "APPROPRIATIONS

5 "SEC. 19. There are hereby authorized to be appropri-
6 ated such sums as are necessary to carry out the provisions
7 of this Act.

8 "EFFECTIVE DATE

9 "SEC. 20. This Act shall become effective one hundred
10 and eighty days after enactment hereof, except that the re-
11 peal of the mandatory inspection provisions with respect to
12 grain shipped or delivered for shipment in interstate com-
13 merce shall become effective thirty days after enactment
14 hereof and the provisions of paragraphs 6 (a) and 13 (a)
15 (5) of this Act shall then become effective with respect to
16 such grain."

Passed the House of Representatives May 29, 1968.

Attest:

W. PAT JENNINGS,

Clerk.

SENATE COMMITTEE ON AGRICULTURE AND FORESTRY

Staff explanation of H.R. 15794 (as passed by the House)

SHORT EXPLANATION

This bill would revise the United States Grain Standards Act. The significant changes made by it are as follows:

- (1) Inspection would not be required for any shipment of grain in domestic commerce, except grain in a container bearing a grade designation;
- (2) Additional inspection services, such as inspection of U.S. grain in Canadian ports (now furnished under the Agricultural Marketing Act of 1946), protein tests, and weighing of sacked grain, would be available upon request (now only grading services in the U.S. are available under the Act);
- (3) The leadtime for effecting changes in the standards would be increased from 90 days to one year;
- (4) Submitted samples could be used in lieu of official samples in official inspection of interstate shipments and of grain in Canadian ports;
- (5) Samplers and laboratory technicians employed by official inspection agencies would be required to have licenses;
- (6) Inspectors' licenses would be issued for 3-year periods (instead of permanently); and
- (7) New enforcement procedures would be provided, including refusal of inspection service; examination of records; subpoena power; exemption from prosecution of witnesses compelled to give self-incriminating testimony; additional specified offenses; and increased penalties.

PRINCIPAL PURPOSE

The principal purpose of the bill is to make inspection with respect to interstate grain shipments permissive, rather than mandatory, in all cases except grain in a container bearing a grade designation. At present inspection is mandatory where the grain is sold in interstate commerce by grade if a licensed inspector is located at the point from which, or to which, the grain is shipped. In its letter requesting this legislation, the Department points out that transportation methods have changed greatly since the Act was passed. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. (Under point-to-point rates, the carrier limits the time for loading and unloading, permits no diversion or rerouting, and permits no stops for inspection.) Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade even though official inspection of much of such grain is technically required by the Act. To provide official inspection for trucklot grain would require stationing official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandizing the grain and would apparently serve no useful purpose to the trade. Furthermore, the Department asserts that it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under special point-to-point rates. It is also discriminatory to require the official inspection of grain shipped from or to a place where licensed inspector is located and not require the official inspection of grain shipped from or to other points.

SUGGESTED AMENDMENTS

(1) The following technical corrections, which have been discussed with the Department, should be made:

- (a) On page 3, line 7, strike "ony" and insert "any"
- (b) Beginning on page 3, line 20, strike out all through line 3 on page 4, and insert:

"(i) the term 'official inspection' means the determination and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain, under standards provided for in this Act; or, upon request of the interested person applying for inspection, the quantity of sacks of

grain, or other facts relating to grain under other criteria approved by the Secretary under this Act (the term 'officially inspected' shall be construed accordingly) ;"

The definition of "official inspection" would then be consistent with the provisions of section 7(b) in H.R. 15794, and it would be clear that, except for quantitative determination, the definition would be applicable to bulk grain.

(c) On page 4, beginning in line 4 with the words "the kind", strike out through the word "Act" in line 18, and insert "an official inspection". This would avoid repetition of the definition of official inspection.

(d) On page 5, line 1, "term" should be "terms"

(e) On page 7, line 9, "abroad" should be "aboard"

(f) On page 8, strike ", with respect to interstate commerce," from lines 7 and 8, and insert it in line 10, before the word "by". This would avoid the inference that use of a proprietary brand name or trademark would constitute a sale by grade in the case of an export sale.

(g) On page 9, line 6, "United State" should be "United States"

(h) On page 9, lines 9 and 10, strike out "condition, or quantity of, or other facts relating to, grain" and insert "or condition of grain, or quantity of sacks of grain, or other facts relating to grain". This would make it clear that determination of quantity would be made only with respect to sacked grain.

(i) On page 13, line 12, "the" should be "this"

(j) On page 13, lines 16 and 17, strike "holder, or owner" and insert ", or holder or owner"

(k) On page 14, lines 6 and 7, strike "holder, owner" and insert ", or holder or owner"

(l) On page 22, line 6, after "from" insert "whom"

(m) On page 24, lines 8, 9, and 16, strike the quotation marks; on line 9 strike "Sec. 20" and insert "Sec. 2."; and on lines 14 and 15, strike out "paragraphs 6(a) and 13(a) (5) of this Act and insert "sections 6(a) and 13(a) (5) of the United States Grain Standards Act, as amended by this Act," to make it clear that this section relates to the effective date of the amending bill rather than that of the original Act.

(2) The following amendments have been requested by the Department of Agriculture :

(a) On page 10, lines 15 and 16, strike out "the United States Treasury as miscellaneous receipts" and insert "a fund which shall be available without fiscal-year limitation for the expenses of the Department of Agriculture incident to providing official inspection services".

On page 24, line 7, before the period insert "to the extent that financing is not obtained from the fees and sale of samples as provided for in section 7 of this Act". This would permit fees for appeal and Canadian port inspections and proceeds from the sale of samples to be deposited into a revolving fund to be used to provide official inspection services, in lieu of being covered into the Treasury as miscellaneous receipts.

(b) On page 13, lines 16 and 17, strike out "been convicted of any" and insert "committed any repeated or flagrant". This would authorize the Secretary to refuse inspection to repeated or flagrant violators, even though they had not been convicted.

SECTION-BY-SECTION EXPLANATION

The bill is composed of one section, which completely revises the United States Grain Standards Act. The following analysis therefore will refer to sections of the United States Grain Standards Act, as it would be revised by the bill.

Section 1. *Short Title.* This section provides a short title "United States Grain Standards Act" identical to that provided by existing law, except for capitalization.

Section 2. *Declaration of Policy.* This section contains a declaration of policy. The present law does not contain such a declaration, but this section does not appear to indicate any change in the general objective of the law.

Section 3. *Definitions.* This section contains a number of definitions of terms used in the Act, and, in general, needs no explanation. The only definitions now contained in the law are those for "person" and "interstate or foreign commerce". This section adds a catch-all "or other business entity" to the definition of "person", and amends the present definition of "interstate or foreign commerce" to exclude commerce solely within a territory or the District of Columbia. The term "United States" is defined to include Puerto Rico and the territories and

possessions, and the term "State" is defined to include Puerto Rico and any territory or possession, and the District of Columbia.

Section 4. *Standards.* Section 4 authorizes the Secretary of Agriculture to establish and amend standards for grain. It differs from existing law in that it specifically provides for standards of kind and class, as well as of quality and condition. It would also specifically require the Secretary to give interested persons the opportunity to present views orally and otherwise. Present law requires 90 days public notice before standards are established or modified. This section would provide a full year's notice, unless the Secretary determined that the public health, interest, or safety required a shorter effective date.

Section 5. *Official Inspection Requirements for Export Grain.* This section requires that grain sold by grade and exported be officially inspected, unless the Secretary determines that official inspection is impracticable. This section is derived from existing section 4, which now covers both export grain and grain sold in interstate commerce, and provides both for inspection and for required use of U.S. standards.

Proposed section 5 does not cover interstate grain (which would thus be freed of inspection requirements), does not require that the grade by which the grain is sold be a grade fixed in the U.S. standards (that being left to proposed section 6), and does not make the exceptions now contained in existing section 4 as to point of origin inspection for grain shipped from, to, or through an inspection point or as to grain shipped from a point at which no licensed inspector is located to a point at which no licensed inspector is located. These exceptions do not appear important in the case of export grain, since inspectors are generally located at ports of exportation, and proposed section 5 permits waiver of the inspection requirement where it is not practicable to provide inspection.

Proposed section 5 is somewhat more specific than existing law in requiring that samples be taken after final elevation as the grain is being loaded aboard, or while it is in the export carrier; and adds a new requirement that the shipper furnish the consignee an official grade designation of the grain.

Section 6. *Required Use of Official Grade Designations.* Section 6 requires the use of official grade designations in any sale by grade in interstate or foreign commerce, and prohibits any person in any sale and exportation from describing grain by a false or misleading description. Proposed section 6, like proposed section 5, is derived from existing section 4, which provides both for inspection and required use of U.S. standards. Section 6 relates only to the required use of U.S. standards. All sales by grade, whether interstate commerce sales or export sales, would have to be described by U.S. standard grades. Inspection would not be required, except in the case of exports.

Section 7. *Official Inspection Authority and Funding.* Subsection (a) authorizes the Secretary to cause official inspection to be made of grain shipped for export.

Subsection (b) authorizes the Secretary to cause official inspection to be made of grain shipped in interstate or foreign commerce or United States grain shipped from Canadian ports. In the case of grain covered by subsection (b) inspection would be by official sample, submitted sample, or otherwise; and inspection might be in accordance with standards promulgated under the Act or under other criteria approved by the Secretary.

Subsection (c) requires that the regulations issued by the Secretary include provisions for reinspections and appeal inspections and provides that samples obtained by or for employees of the Department shall become the property of the United States. Existing section 6 is slightly more explicit about reinspections and appeal inspections than proposed subsection (c) and requires that appeals be taken before the grain moves from the place where the inspection appealed from was made.

Subsection (c) also provides authorization to dispose of official samples obtained by or for employees of the Department as Federal property without regard to the Federal Property and Administrative Services Act. No provision is made for obtaining and disposing of such samples in the present Act. The Federal Property and Administrative Services Act provides, in part, for competitive bidding and for negotiated sales. Grain samples are of limited value and are frequently difficult to sell at any price.

Subsection (d) makes inspection certificates prima facie evidence of the facts stated therein. Existing section 6 contains a similar provision making the findings of the Secretary on appeal prima facie evidence of the true grade of the grain. Subsection (d) would extend this provision to certificates issued by any official inspection personnel and to cover all matters covered by the certificate.

Subsection (e) authorizes the Secretary to charge reasonable fees to cover the total cost of official inspection, except when the inspection is performed by employees of an official inspection agency. Such fees, less any proceeds from the sale of samples, are required to cover, as nearly as practicable the costs of the Department of Agriculture incident to appeal inspections and inspections in Canadian ports, including supervisory and administrative costs related to appeal inspections and inspections in Canadian ports. Existing law provides for reasonable appeal fees and overtime, holiday and night work fees, the appeal fees to be refunded if the appeal is sustained. While subsection (e) is more specific than existing law as to the total amount of fees to be charged, and does not require appeal fees to be refunded where the appeal is sustained; the Department has advised informally that no change is contemplated in the present system of charging Federal appeal fees.

Subsection (f) provides that not more than one inspection agency shall be operative at one time for any one city, town, or other area. This provision is new, but in practice only one inspection agency has been designated per city, town, or other area.

Section 8. *Licenses and Authorizations.* Section 8 authorizes the Secretary (1) to license individuals to perform inspection functions, and (2) to authorize Department employees to perform supervisory or appeal inspection work or initial inspection of U.S. grain in Canadian ports. Licenses would terminate triennially, and the licenses would not be issued or continued in effect unless the licensee was employed by an official inspection agency, or was operating independently under the terms of a contract with the Department of Agriculture. The Department advises that the provision with respect to contractors is designed to cover laboratory technicians, samplers, and similar personnel that may perform special supervisory or appeal inspection services at the request of the Department.

At present neither the law nor the Secretary's regulations require license renewal. Under proposed section 8, the Secretary would not be required, as he is at present, to issue licenses to all inspectors employed by State grain departments.

At present, the Secretary is authorized to issue licenses only to inspectors to inspect, grade, and certificate the grade of grain. Samplers and laboratory technicians who perform official inspection functions are not now required to have licenses. Present licensees are not required by the Act to be employed by an official inspection agency or under a contract with the Department.

Subsection (d) provides that persons employed by an official inspection agency or performing official inspection functions under a contract with the Department shall not be deemed to be employees of the Federal Government. At present, there is no specific provision in the Act on this point.

Section 9. *Suspension or Revocation of Licenses.* Section 9 authorizes the Secretary to suspend or revoke any license after opportunity for a hearing because the licensee—

- (1) is incompetent,
- (2) has inspected grain by standards other than provided for in the Act,
- (3) has caused the issuance of a false or incorrect official certificate, or official form, or otherwise inspected grain improperly,
- (4) has accepted any consideration for any neglect of duty,
- (5) has used or allowed his license to be used for any improper purpose, or
- (6) has otherwise violated the Act or the regulations under it.

A license may be suspended without hearing whenever the Secretary deems such action to be in the best interests of the official inspection system. The ground specified in clause (5) is a newly specified ground and some of the other grounds have been refined somewhat, but since the ground described in clause (6) is contained in both existing section 7 and proposed section 9, the grounds for suspension or revocation will be substantially unchanged.

Section 10. *Refusal of Official Inspection.* This section would provide the Secretary with an enforcement power he does not now have. Under it he could, after opportunity for hearing and for as long as he deemed necessary to effectuate the purposes of the Act, refuse inspection of any grain to any individual convicted of any violation of section 13 of the Act if providing such inspection "would be inimical to the integrity of the official inspection service." Inspection could similarly be refused to (1) a partnership if any general partner were so convicted; (2) a corporation if any officer or director or holder or owner of more than 10 percent of the voting stock were so convicted; (3) an unincorporated association or other business entity if any officer or director were so convicted; (4) any

person who has been refused inspection of grain for a cause above described for a period which has not expired, or (5) any other person conducting a business with which a person denied inspection was, at the time such cause existed, or is responsibly connected. A person would be deemed to be responsibly connected with a business if he were a partner, officer, or director, or holder or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.

Section 11. *Conflict of Interest Prohibited.* Section 11 prohibits licensees from certain activities which might result in a conflict of interest. This section generally continues in effect the conflict of interest provisions of existing section 7, but extends them to include acceptance of gratuities and additional activities specified by regulation as involving a conflict of interest, and permits the Secretary to make such exceptions as are consistent with the purposes of the Act, including exceptions to permit warehouse employees to perform official sampling functions.

Section 12. *Records.* This section requires official inspection agencies and licensees to maintain such samples and records as the Secretary may prescribe. At present, only licensed inspectors and the Secretary are required to maintain records. There is no provision for maintaining file samples.

Subsection (b) provides that the records shall be maintained by the official inspection agencies for 2 years except for grain samples which are to be kept for such period not over 90 days as the Secretary shall prescribe and except that the Secretary may in specific cases require other records to be kept for as long as 3 additional years. There is no retention period specified at present.

Subsection (c) would require official inspection agencies required to maintain records under the section to permit authorized representatives of the Secretary to have access thereto at all reasonable times. There is no such provision now.

Section 13. *Prohibited Acts.* Section 13 prohibits violations of various provisions of the Act and other actions designed to prevent the effective operation of the Act. In general it contains prohibitions similar to those now contained in sections 9 and 10. The new prohibitions added by it are sections 13 (a) (1) and (2) dealing with counterfeit certificates, forms, and devices; section 13 (a) (4) dealing with altered samples; section 13 (a) (5) and (6) dealing with false representations concerning the inspection of grain; section 13 (a) (9) dealing with falsely representing oneself to be licensed; and section 13 (a) (10) dealing with misrepresentation in applying for inspection.

Section 14. *Penalties.* This section imposes a penalty of up to 6 months in prison or up to \$3,000 fine, or both, for violations of section 13; except that for additional offenses committed after a conviction has become final the penalty may be imprisonment up to one year, or a fine of up to \$5,000, or both. Under existing law the maximum penalty is \$1,000, or imprisonment for one year, or both, in all cases. Section 14 contains a new provision relieving the Secretary of any obligation to report minor violations for prosecution when he believes the public interest will be served by a suitable written notice or warning.

Section 15. *Responsibility for Acts of Others.* This section makes no change in the law, being identical to a provision now contained in the first section of existing law. It provides that the act or omission of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall be deemed the act or omission of such association, partnership, or corporation.

Section 16. *General Authorities.* This section authorizes the Secretary to conduct investigations, hold hearings, require reports from official inspection agencies and others, prescribe rules and regulations, and adopt procedures for determining whether any certificate, form, or representation is false or misleading. Prescription of rules and regulations is now authorized by section 8 of existing law. This section also provides that proceedings for refusal to renew or for suspension or revocation of licenses or for refusal of inspection service shall not be subject to the hearing and decision provisions of 5 U.S.C. 554, 556, and 557, unless requested by the respondent.

Section 17. *Enforcement Provisions.* Section 17 makes applicable to the administration of this Act provisions similar to certain provisions in sections 6, 8, 9, and 10 of the Federal Trade Commission Act and section 409(1) of the Communications Act of 1934. This section provides for examination of records; issuance of subpoenas; attendance of witnesses (to be enforced through court procedure); witness fees; penalties for failure to attend and testify; exemption from prosecution of witnesses compelled to give self-incriminating testimony; prohibiting disclosure by Department employees of information obtained under the Act; and

conferring jurisdiction on the United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of jurisdiction of cases arising under the Act. These enforcement provisions are not in the existing Act.

Section 18. *State and Local Laws, Separability.*

Subsection (a) provides that no State or subdivision thereof may require inspection or description under any standards as a condition of shipment or sale of grain in interstate or foreign commerce. (Only a few States have such requirements.) It provides further that no State or subdivision may require a license for, or impose other restrictions on, performance of official inspection functions by official inspection personnel, and provides that otherwise nothing in the Act shall invalidate any State or local law not in conflict with the Act. There are no such provisions at present.

Subsection (b) provides that the invalidity of any provision shall not affect the remainder of the Act. This is substantially similar to existing section 11.

Section 19. *Appropriations.* This section authorizes the appropriation of such sums as are necessary to carry out the Act.

Section 20. *Effective Date.* This section provides that the Act shall become effective 180 days after enactment, except that repeal of mandatory inspection requirements for interstate grain shall be effective 30 days after enactment. This section should be modified to date from enactment of the bill, instead of from enactment of the original law.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 8, 1967.

HON. GRAHAM B. PURCELL,
Chairman, Subcommittee on Livestock and Grains,
House of Representatives,
Washington, D.C.

DEAR CHAIRMAN PURCELL: This responds to your request for the comments of the Commission on H.R. 11162, a bill, "To provide for United States standards and a national inspection system for grain and for other purposes." This matter has been referred to our Committee on Legislation and, on its behalf, I am authorized to submit the following comments.

It is our understanding that the general effect of this legislation would be to change the present provisions of the United States Grain Standards Act so as to make the official inspection of most grain by the Department of Agriculture permissive rather than mandatory. Mandatory official inspection would be retained only on certain grain exported from the United States.

While we have no specific comments to offer on the specific provisions of this bill, we believe that enactment of legislation of this type would contribute materially to improving the efficient utilization of railroad freight cars. For some time, the Commission has been investigating various aspects of the railroad freight car problem in an effort, among other things, to determine what steps should be taken to obtain improved service and more efficient use of the carriers' equipment. Our field investigations over the years have indicated considerable car delays in the holding of grain for inspection. We have also found that grain inspection facilities are nowhere near adequate to meet peak receipts resulting in many cars being held short of terminals awaiting placement on inspection tracks.

In its report in *Ex Parte 252, Incentive Per Diem Charges*, 332 I.C.C. 11, decided October 3, 1967, the Commission, in discussing developments in the area of better equipment utilization stated that, "Proposed changes in laws relating to the inspection of grain and the development of more rapid inspection techniques also signal improvements in freight car utilization," 332 I.C.C. at pp. 18-19.

For the information of the Subcommittee, we have enclosed for inclusion in the record a copy of some remarks prepared by former Chairman Bush which discuss the beneficial effects of this legislation on the railroad freight car problem in greater detail.

Since enactment of this bill would give wide latitude to the Secretary of Agriculture to develop and promulgate new methods for the inspection of grain, it could substantially reduce the number of car days lost by cars of grain held for inspection under present procedures. In turn, this would result in improved

freight car utilization and make many more cars available to the shipping public. For these reasons, we favor the enactment of H.R. 11162.

Sincerely yours,

WILLIAM H. TUCKER,
Chairman, Committee on Legislation,
 WILLIAM H. TUCKER,
 PAUL J. TIERNEY,
 LAURENCE K. WALRATH.

SOME OBSERVATIONS REGARDING THE RAIL CAR "SHORTAGE"

(By John W. Bush, Commissioner, Interstate Commerce Commission)

APRIL 7, 1967.

The term "rail car shortage", more often heard as "boxcar shortage" is not really a correct terminology. However, no one has yet come up with an acceptable correction or improvement.

There is a shortage, but better *utilization* coupled with normal car building and replacement could eliminate a very large percentage of the shortage. I also believe car service orders helped last year.

Already, computerized tracing and recording of car movements is going a long way toward better utilization of cars. And there is still much more improvement to be expected in this area. I have often heard the statement that rail cars are only moving on line about 10 percent of the time.

Here are only a few of the *utilization* factors and problems. These practices, and others, can be brought sharply into focus by computerized tracing and recording of car movements.

(1) Old practices of over-ordering by shippers (like padding a budget to offset anticipated cuts) contribute to lost car days.

(2) Circuitous routing, to give the shipper's sales department extra days in which to actually find a sale for the carload (as in the lumber industry) is sometimes another contributor to the overall shortage of boxcars.

(3) Shippers sometimes use boxcars as warehouse or storage space for a few days when demurrage is cheaper than early unloading.

(4) Carriers are naturally reluctant to release an empty car if they think they might send it out full within a few days.

GRAIN INSPECTION

I believe that the *greatest single move* that could be made to improve car utilization would be to revise our grain sampling procedures and practices.

At the present time it is the practice to set out cars for grain inspection. The inspecting is done with a long probe manipulated by a United States grain inspector. The grade obtained or sample is used in the buying and selling of grains for either domestic or export commitments. The grading is done pursuant to regulations and specifications set up by the USDA under the Grain Standards Act. There is also State inspection of grain.

A number of western grain railroads recently undertook to obtain some relief when it was called to their attention that there was a possibility of changing the Illinois regulations and also the possibility of eliminating the reinspection of grain in Minnesota. A check on the North Western indicated that cars were being held for inspection four to five days, on an average, in the non-rush season, and that in the height of the heavy movement, when grain inspection tracks become plugged, the cars might lose as much as fifteen to twenty days. It is to be noted that this is on a single inspection and a car may be inspected as much as *three or four* times. Several other northern railways obtained similar results.

The Rock Island has just completed a study over the southern part of its system, which shows an average loss of approximately four days on its grain shipments due to inspection. Checks were made for this at Kansas City, Amarillo, Fort Worth, and Belleville, Kansas. There is always a loss of one day and sometimes it runs as high as twelve days, although the average was slightly higher than four, as indicated.

If we were to take all of the cars in grain service and extend this loss of car days against the cars of the entire fleet it can readily be seen that the elimination of inspection on hold tracks would materially increase car utiliza-

tion. The need is obvious, therefore, for new laws and regulations covering inspection. The U.S. Grain Standards Act was passed in 1916.

The new machine-sampling devices appear not only to give a much superior sample, but also to point the way to a new sampling system which would do away with the necessity for sampling grain in the car.

The grain industry has given a great deal of attention to the new method of sampling, as has the USDA. After all, a probed sample merely gives a cupful of grain out of various parts of the car which really isn't a representative sample of the entire car. The new machine-sampling takes a sample, at set intervals, in either the in-run spout or the out-run belt when the grain is loaded or unloaded. By shifting to machine-sampling, on the in-run spout, the grain railroads would be entirely relieved of in-car sampling and would immediately obtain a *minimum* of four additional car days per shipment on their entire fleet in use. In this regard the western roads loaded 1,759,907 cars of grain and grain products in 1965.

It has been interesting to note that in addition to *carriers'* support of the new method of sampling, in order to relieve themselves of the burden of supplying a storage bin in transit while the sampling takes place, the *shippers* also have a very real interest. Recently 33 relatively small elevator operators met in northwestern Iowa. These men were quite anxious to see spout sampling become accepted, as it would materially increase the grade and, consequently, the sale price of their grain when moved in a covered hopper. They had found by experience that corn, which they were certain would grade three or better (the lower the number the better the grade), was showing up when sampled by probe as no better than six FM. To check this, they had installed a mechanical sampler at origin and made belt run checks at destination. This had shown grain going into the covered hopper, via the mechanical sampler, as three or better, whereas it graded around six when an official sample was taken by the probe method. They explained that this disparity was due to the fact that when grain is loaded through the center hatches of a covered hopper, it forms a cone underneath the spout, with the heavier whole grain going to the outside of the cone and the light material, broker grain, etc., staying in the center of the cone. Consequently, when the probe is pushed down through the same center hatches it gets an unfair sample, whereas the random sample of the machine-sampling in the spout, or run-out belt, was giving a true sample of the entire car. Accordingly, these shippers were anxious to see a change in the laws and regulations which would permit submitted samples obtained by mechanical sampling. These shippers have a very real financial stake in obtaining the newly proposed type of sampling, and the railroads want it to relieve them of the burdensome sampling on hold tracks through the old, and present, probing method.

In March of this year the Grain and Feed Dealers National Association held its national convention. This Association is probably more representative of the grain trade, with the exception of millers, than any other single grain organization. The Association has gone on record as favoring the mechanical sampling and a submitted sample.

Two bills were submitted last session which bear on this subject. They are resubmitted this year as S. 272 and H.R. 16918. S. 272 is very short and makes submitted samples permissive. H.R. 16918 is much longer, covering not only submitted samples, but many other areas as well. I am informed that the grain trade feels that S. 272 does not go far enough and that the house bill goes too far. However, it now seems to be generally expected that the USDA will come out with a revised bill which will eliminate the objections that the grain trade had to last year's house bill and will supply the deficiencies of S. 272 in their eyes. Accordingly, I hope that a bill may shortly be available which would have the effect of relieving the railroads of the burdensome sampling, as now conducted, and that can receive the support of the grain trade and USDA as well, although for entirely different reasons. This does not mean, of course, that the grain trade is not as desirous as we all are of improving car utilization for I need not add that the grain trade has been one of the vociferous segments of the shipping community in complaining about car shortages. Of course, anything that makes a significant contribution to the effective car fleet cannot help but redound to the benefit of all shippers. The shift in the method of sampling grain appears to be one of the most immediate methods of obtaining a significant improvement in car utilization and, in effect, an increase of cars available for loading.

One company, International Stanley Corporation, in cooperation with several railroads traced the movement of almost 10,000 cars through eight grain inspection terminals and found that the *average* delay on grain cars stopped or held for official inspection varies from a low of 1.7 days in one terminal to over 10 days in several other terminals. Their report says: "Based on approximately 2,000,000 carloads of grain originating each year, this represents a *waste* of over 10,000,000 car days, or the equivalent of adding 27,000 boxcars to the railroads car fleet per year. This amount of cars would handle between 400,000 and 500,000 carloads of grain in a year's time."

Additional studies to document the loss of car days through sampling are being made and will certainly be presented at the hearings on the new bills.

APPENDIX A

Here, I am informed, is a summary of how several different factors pertaining to grain inspection can contribute so very materially to the grain car shortage.

1. To begin with, a grain shipper is entitled to two free days and one diversion at the first point of inspection, e.g., Lincoln, Nebraska.

2. Then if the billing was to Omaha they would have an additional two free days of inspection time. (Shipper can call for—and get—*reinspection at several points* if he wishes. The purpose may be the hope of getting a higher grading—or just to use the boxcar for warehousing hoping for an upturn in the market.)

3. Free time starts at 7:00 a.m. Therefore, if the car arrives at 8:00 a.m. there are 23 additional hours before 7:00 a.m. the next day at which time free time, as stated above, starts.

4. Suppose, then, the car arrives at 8:00 a.m. on Friday. That would mean the balance of Friday would not count. Then Saturday and Sunday (weekend days) also would not count. Therefore, the two days free time would start at 7:00 a.m. Monday. After 7:00 a.m. Wednesday (the end of the two days free time) the paperwork and switching or "shipout" of the car would actually take place. Therefore, for this one inspection a car which arrived at 8:00 a.m. Friday might not move until the following Wednesday or conceivably Thursday morning, just counting free time.

It must also be realized that at harvest time there not only is a shortage of cars but there is a very great shortage of inspectors and trackage. If a terminal receives an influx of 1,000 or 1,500 cars, which they probably could not handle on their terminal tracks, they would have to "stack" cars at "country-hold" points some miles away from the terminal itself.

If the harvest begins in Texas in May, the most critical time really begins about the first of June for the harvest moves from Texas up through Oklahoma, Kansas, and into the Dakotas, normally by the middle of July. Wheat, corn, barley and durum all must be harvested and inspected. Milo (Grain Sorghum used for cattle feed) must be harvested and shipped but not inspected.

It is my understanding that corn and malting barley, from the time standpoint, are the most critical of the grains to be inspected. This, I understand, is due to greater spoilage potential.

Senator JORDAN. Mr. Grange, you may proceed as you wish, and introduce your companion witness, sir.

STATEMENT OF GEORGE R. GRANGE, DEPUTY ADMINISTRATOR FOR MARKETING SERVICES, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. GRANGE. Thank you, Senator.

I have with me Mrs. Lotus T. Prokop, from the Office of General Counsel. Also sitting in the rear is Mr. Pettus, the chief of our Grain Division and Mr. Woodworth, the head of our Grain Inspection Branch.

If in the questioning we get into details that I may not have the information to answer your question, I shall appreciate it if I am able to draw upon my companions.

Senator JORDAN. You certainly may.

Mr. GRANGE. I have a rather brief statement, Senator, and if I may, I will read it for the record.

We welcome this opportunity to appear before the subcommittee. S. 2069 and H.R. 11162 were introduced in the Senate and House last year at the request of the Department. Subsequently, the House held hearings on its bill and, after making a number of changes in the Department's original proposal, passed H.R. 15794. These changes incorporate many suggestions which were made by industry representatives and most of them are approved by the Department. Consequently, my remarks concerning this proposed legislation will be directed toward the provisions of H.R. 15794.

H.R. 15794 completely updates the Grain Standards Act of 1916 and makes many important changes in order to gear its provisions to present-day marketing practices.

The most essential change is the provision for permissive inspection on all domestic sales of grain and deletion of the mandatory inspection requirement at designated points. The historic grain markets were originally designated as the mandatory inspection points. Now that a major portion of grain shipment is by truck, a high percentage of grain bypasses these historic markets. Consequently, the existing mandatory inspection requirement covers only a portion of domestic grain shipments.

Furthermore, many of the truck shipments of grain which move from or to designated inspection points do so during the night when no official inspection is available. In fact, there are only three or four of the 190 designated——

Senator JORDAN. Excuse me, your description says 175.

Mr. GRANGE. Yes, Senator, it was a typographical error.

Senator JORDAN. It should be 190.

Mr. GRANGE. 190 is the proper number.

These vary from week to week as inspection points are approved or are terminated, but presently it is within one or two of being 190, Senator.

Senator YOUNG. Aren't most of these inspection points required by the laws of the various States?

Mr. GRANGE. These inspection points are under the U.S. Grain Standards Act and they are designated points under this act. Now, some of these inspection points, particularly for warehousing purposes, are required under State law. I do not know how many of these points also would require inspection for warehousing purposes, Senator Young. There would be a number of them. I would guess it would be considerably less than half of them because there are only a relatively few States that have State grain inspection laws.

There are only three or four of the 190 designated inspection points in the United States which routinely provide official inspection on the basis of 24 hours per day, 7 days per week. Consequently, the mandatory provisions of the act are not being enforced with respect to many domestic truck shipments of grain. We believe that the grain trade is in general agreement that it would not wish to assume the additional inspection cost which would be required to establish arrangements necessary for 100-percent inspection of truck shipments moving from or to the designated points.

Senator YOUNG. Mr. Chairman, could I ask some questions at this point?

Senator YOUNG. We have had hold points or inspection points for North Dakota grain in Minnesota. From these points a car could be diverted to either the Duluth or Minneapolis markets. Now, this change would mean that every local elevator in every little town could sample the grain being shipped out and this sample would be accepted by the Minneapolis Grain Exchange.

Mr. GRANGE. Well, I couldn't speak for the exchange, Senator Young. It would mean, as far as the U.S. Grain Standards Act is concerned, that it would depend upon the desires of the buyer and the seller as to what kind of Government inspection, if any, they wished to have covering their transaction. If, for example, the buyer and seller agreed that a sample taken at the country elevator point, let's say by a mechanical sampler at the time of loading, was adequate and the integrity of the sample was acceptable to both parties, then this sample could be submitted to a licensed grain inspection agency, and a certificate issued under the proposed act would then be furnished to the buyer and seller for their use and information.

Senator YOUNG. What part would the Department of Agriculture play in licensing all these elevators? Would you require that they be bonded to insure that the grade established from the sample they take is correct?

Mr. GRANGE. Senator Young, the Department of Agriculture would not license the elevator as such. We would license the grain inspection agency. In the case of Minnesota, for example, it would be the State agency as the only licensed grain agency in the State of Minnesota. In the State of North Dakota the State department of agriculture is licensed for certain points and some private agencies at other points in North Dakota. We would not license the elevator, you see. We would be licensing the grain inspection agency.

Senator YOUNG. In the past almost all the grain moving by train was inspected at some place before it reached the market? Now, so much of it is moving by truck. And you are proposing that the local elevator be able to do the sampling and I am not opposed to it, but I am wondering about the mechanics of it. How would someone buying grain by sample on the Minneapolis Grain Exchange know whether this was actually a true sample of the grain contained in that load of wheat or whatever grain it was.

Mr. GRANGE. Under the proposed act, Senator Young, the U.S. Department of Agriculture and the licensed grain inspection agencies, would be able to adopt and follow any kind of inspection procedure which the applicants for inspection requested insofar as determining the identification of the grain and maintaining the identity of the sample.

For example, if the licensed grain inspection agency were asked to draw the sample from the car at time of loading or truck at time of loading, then the licensed inspector or sampler would do so, and this would be identified on the certificate.

This proposed act grants a great deal more flexibility on the part of the grain inspection agencies in being able to respond to the request for inspection from the grain trade.

Senator YOUNG. If my information is correct, the Minneapolis Grain Exchange, for example, would require that the local elevator be bonded to insure that the sample taken from a certain truckload or carload, boxcarload, of grain would be representative measure up of what he said it was when it reached the market. I think this is correct; is it not? That the Minneapolis Grain Exchange or any other exchange in accepting these samples would probably require a bond of the local elevator to insure that they were true samples.

Mr. GRANGE. Senator, I do not know whether the Minneapolis Grain Exchange presently requires bonds from the country elevators that deliver grain on the Minneapolis market.

Senator YOUNG. Let me go a little further with this. How would a miller, for example, buying a lot of wheat on the Minneapolis Grain Exchange based on the sample placed on the table, know that what he was buying of that the sample he was inspecting was indicative of what that load contained unless the local elevator man or whoever the seller was was bonded?

Mr. GRANGE. In most cases, Senator, under this proposed act, the sample will be drawn by the official inspection agency. It will be identified so that anyone can depend upon the identity and integrity of the sample and the certificate.

Senator YOUNG. Now, in North Dakota alone every little town has at least one elevator and most of them have two or three. This would mean several hundred elevators would have to be licensed and, I would assume, bonded to assure the accuracy of the samples they take. Wouldn't that be true? Otherwise you would have a chaotic situation. If you or I wanted to buy some wheat in Minneapolis and you had no way of knowing this sample was a true sample of the shipment, where would you be?

Mr. GRANGE. You are talking about shipping point inspection at time of loading; right, Senator?

Senator YOUNG. Yes; that is right.

Mr. GRANGE. Now, you are perfectly right. In order to place reliance upon inspection results at time of loading, it will be necessary to set up some kind of a system where you can have the kind of reliance that you would want to have on that sample. This proposed act would make it possible to do so, whether it be through some kind of a bonding arrangement between the exchange and the country elevators, whether in many cases—Minot, N. Dak., for example, where there is inspection service available—you could have the inspection agency itself draw the sample. There are various proposals on the mechanical samplers to have locked boxes that the sample would drop into automatically and a representative of the inspection agency would come around once a day, let's say, in order to retrieve these samples that would drop into the separate compartments in the sample box. This would, of course, protect the integrity of each of these samples. There are various considerations and proposals as to how we can make more readily available the shipping point inspection arrangements.

You see, under the present act, if you ship from or to a designated inspection point and sell by grade, then you have to have official inspection which means you have to have official sampling in order to have official inspection. So under the present act we are restricted from entering into these other kinds of arrangements that may well be better

adapted to meet the needs of the trade than the existing arrangements.

Senator YOUNG. Well now, if the Minneapolis Grain Exchange wanted to license this local elevator in a little town of not more than 50 people, they could do so if they wanted to by requiring a bond to assure that the sample was correct, couldn't they?

Mr. GRANGE. Yes, Senator.

Senator YOUNG. I am not saying there is anything wrong. I think most people want this and I think it is acceptable to the grain exchange. But it will mean quite a little expenditure for equipment on the part of these small elevators. I think the sampling devices cost around \$2,000 apiece, don't they?

Mr. GRANGE. Some of the automatic devices are rather expensive, Senator. I don't know the exact cost.

Mr. Woodworth reminds me, Senator, that the Minneapolis Grain Exchange presently is in the weighing business. It has not gotten involved in the grading end of the work. So if it were to undertake something along the lines that you are describing, this would be a new field of activity insofar as the Minneapolis Exchange is concerned.

Senator YOUNG. I understand this is one of the possibilities. But there certainly will have to be some way of insuring accuracy if all these local elevators can submit their own samples for the first time. I think perhaps it is all right, but the exchange would have to have some way of knowing how accurate the sample is.

Mr. GRANGE. We concur completely.

We have also said, Senator Young, that we think there are some exchanges that probably will, at least for the present, continue their present system of having sampling and inspection at the time of their arrival. This, of course, they would be authorized to do.

Senator YOUNG. Yes; they could do it either way.

Mr. GRANGE. They could do it either way. The main purpose of this act is to give more flexibility and to be able to gear the inspection to the needs of the grain trade—not because of some requirement of Federal law.

Senator JORDAN. Isn't a lot of this a matter between the buyer and the seller, too—what he requires?

For instance on the buying of cotton, a great many people buy on what they call actual samples. The shipper will submit a sample, and the buyer will go through those samples. When the cotton comes in, he looks at it to see if it matches the sample submitted to him. If it doesn't, he can reject it; and I presume the same method would be established here. That it is a matter entirely up to the individual seller and buyer. He doesn't even have to accept the goods if he doesn't want to.

Mr. GRANGE. Exactly, Mr. Chairman, we have used cotton as one of the examples in saying there is no more reason to have a mandatory inspection requirement on domestic shipments of grain than there would be on cotton. There should be a voluntary inspection service available, so if anyone does wish to buy or sell on the basis of official certificates that they can do so. This is, of course, a method that is followed in cotton; or they could buy or sell on the basis of actual sample or some other terms, you see, if they wished to do so. This is what would be accomplished if the revision of the Grain Standards Act proposed is enacted.

SENATOR JORDAN. Well, you could have the same thing—going back to cotton again—in Atlanta, for instance. The official grading board is there, and if an argument between the seller and the buyer develops you submit the sample there and whatever they say, that is it, and they arbitrate it and say, “we think you are right or wrong,” and that settles it. It has worked all right.

MR. GRANGE. Yes, Senator. In fact there has been an increase in the use of the official inspection for the purpose of buying and selling cotton during recent years.

SENATOR JORDAN. Quite a lot.

SENATOR YOUNG, do you have any further questions?

SENATOR BOGGS, do you have any questions at this point?

SENATOR BOGGS. No, I apologize for coming in late, Mr. Chairman.

SENATOR JORDAN. That is all right. But go right ahead, Mr. Grange.

MR. GRANGE. Before leaving this particular part of the proposal, and in line with the questions that you and Senator Young have asked, Mr. Chairman, let me just make this additional statement: At the present time we estimate that something less than two-thirds of all the domestic interstate shipments of grain move from or to one of these 190 established points. We further estimate that about half of this grain is sold on the basis of grade before shipment. This means multiplying the one-half by something under two-thirds that actually there is only about 30 percent of all interstate domestic shipments of grain that under the present law have to have official inspection, only 30 percent, you see.

Seventy percent can be shipped domestically without having any sort of official inspection, either because it is outside one of these 190 points or because it wasn't sold by grade in the first place.

For the life of us we cannot understand why there are some people who still cling to the idea that this mandatory inspection requirement should be retained at these 190 points or whatever points may be designated at some future time. It just does not seem to add up insofar as offering a constructive kind of marketing service to the grain industry.

SENATOR JORDAN. You may continue.

Let me ask you a question at that point, too. Right in line with that, I presume that the majority of these truck shipments which have been brought out are not inspected at all, other than they were to the man who sold it and the man who brought it?

MR. GRANGE. Yes, Mr. Chairman. We estimate for the truck shipments moving from or to one of these established points that only about one-third of them are officially sampled and inspected, and about one-third, whereas about 85 percent of all rail shipments moving from or to one of these 190 points are officially inspected and sampled.

If we assume that slippage on the rail is because they were not sold by grade, which is a good logical assumption, you see, we are actually failing to inspect at least half the trucks that should be inspected, you see. We are not enforcing the law under the present setup insofar as truck shipments are concerned.

We have records, for example, of some of these designated points where truck receipts last year were, say, 12,000 truckloads received and there were 18 trucks officially sampled and inspected. This shows

the lack of application of the present statute to the truck shipments even at one of these established points.

Senator YOUNG. You are not saying that grain sold through a grain exchange is not inspected, are you? Any grain sold through the grain exchange must be inspected some place. I imagine that most of these truck shipments of grain are sold outside the exchanges, isn't that right?

Mr. GRANGE. This would be true in many cases. Then also——

Senator YOUNG. Or sold direct?

Mr. GRANGE. There are some exchanges which do not have an official inspection requirement as part of the exchange rules.

Senator YOUNG. How do they know what is in the carload or truckload then, because they usually buy a sample on the floor of the grain exchange. If they just have a sample, they must have some way of knowing what they are buying.

Mr. GRANGE. I presume in this case, Senator, they would leave it up to their individual members who are involved in the transaction to ascertain what the grade is.

Senator YOUNG. I suppose more is sold directly than go through the exchange itself.

Mr. GRANGE. This is also true, yes, sir.

Senator BOGGS. May I ask, what percentage of the volume is hauled by trucks, would you estimate?

Mr. GRANGE. I think the latest estimate that we have was somewhere between 30 and 35 percent.

Senator BOGGS. But you don't have to inspect each truckload if it is hauled from the same exchange. You wouldn't mean inspecting each truckload, would you?

Mr. GRANGE. Under the present act, Senator, if this grain, whether it be by rail or truck, moves from or to one of these established inspection points, and secondly, if it is sold by grade, No. 2 corn, for example, then the present statute does require an official inspection of each lot.

Senator BOGGS. I see.

Mr. GRANGE. Each truckload.

Senator BOGGS. And each carload on a train?

Mr. GRANGE. And each carload.

Senator BOGGS. I see. Thank you.

Mr. GRANGE. Senator, back in 1916 when this law was passed, most grain that moved in interstate commerce moved through one of these historic markets such as Chicago, Kansas City, or Omaha. And there was a great number of individual grades, Chicago No. 2, Kansas City No. 3—this sort of thing. It was the intent of the grain industry, and after years of working they got the law through Congress, to standardize these grades under Federal law and to make mandatory inspection at these major bottlenecks or marketing points.

Now, 52 years later, the marketing system is pretty much completely different. A direct sale from Iowa to one of the major broiler growers in Delaware, for example, does not move through any inspection point. They are probably buying No. 2 corn or barley, but there would not be an inspection requirement on such a transaction.

In North Carolina, for example, there are only two designated inspection points in the entire State, Elizabeth City and Raleigh, and only a fraction of all the grain moving into North Carolina now goes through those two established points.

In the case of Georgia there is only one, Atlanta. Thousands and thousands of carloads and truckloads of grain move into Georgia into the broiler area, but practically none moves through Atlanta. If it should happen to move to Atlanta, and is sold by grade, then under present law there is a mandatory inspection requirement which we say and the grain industry says is archaic and outdated and does not fulfill a constructive purpose any longer.

Senator BOGGS. Would the grain be inspected before it was shipped rather than in South Carolina or Delaware if it arrived there?

Mr. GRANGE. Senator, under this bill the inspection would be permissive.

Senator BOGGS. Permissive?

Mr. GRANGE. If the shipper or the receiver wished to obtain official inspection, they would request it——

Senator BOGGS. I see.

Mr. GRANGE. From the inspection agency and inspection would be provided either at shipping point or at destination or en route, depending upon the request of the parties involved. This would be the same as it is for rice, for fruits and vegetables, for potatoes such as you have in Delaware or for cotton or practically all of the other agricultural commodities. The only mandatory inspection we have under Federal law as such and for an entirely different purpose is the mandatory inspection law for meat and poultry for wholesomeness. This is not for wholesomeness. This is for grade. Inspection comes under the Food, Drug, and Cosmetic Act as far as wholesomeness is concerned and there is surveillance by Food and Drug.

Under the bill, permissive inspection can be made available through licensees wherever such services are desired. The bill will permit the use of mechanical samplers at shipping points where their use is not now permitted. It will avoid holding of rail cars on inspection tracks and unnecessary delays in transit time whenever there is no desire for official inspection at such point.

H.R. 15794 requires the mandatory inspection of all exports of grain sold by grade. Almost all exports are sold on a certificate final basis, and, therefore, the official grade is usually relied upon in carrying out the transaction.

Senator YOUNG. Now, about 60 percent of all the wheat produced in the United States is exported. How and where would you get your inspection on these shipments?

Mr. GRANGE. At time of loading aboard a vessel, Senator, at the port of embarkation.

Senator YOUNG. They used to do a pretty good job of slugging these shipments with foreign material. Has that been pretty well corrected?

Mr. GRANGE. I know of no serious cases that have come to light during the last few years.

Senator YOUNG. I was on a subcommittee of this committee one time investigating that and we found some horrible cases.

Mr. GRANGE. Exports are under very close surveillance. These are concentrated points. Both the licensed inspectors as well as the Federal supervisors maintain adequate staffs at the ports and in most cases, of course, the integrity of the exporter is such that they wouldn't want to do this anyway, so it is a very small minority where you have any problem.

Senator YOUNG. At that time the Department of Agriculture claimed one of the problems was that they didn't have enough inspectors. You apparently feel you have enough inspectors now to do a good job.

Mr. GRANGE. Insofar as our export work is concerned we think we are adequately staffed, yes, sir.

Senator YOUNG. All right.

Mr. GRANGE. Of course, we always say we can do something better if we had more staff you know, sir.

H.R. 15794 retains the established system of providing service through federally licensed inspectors but requires that their competency be determined prior to licensing. In order to avoid undesirable competition between official inspection agencies, only one agency would be authorized to provide service at one place and time.

H.R. 15794 contains many compromises as the result of the extensive hearings and careful review which were accorded to the original bill H.R. 11162. Consequently, even though a number of the Department's recommendations were modified or excluded, we are generally satisfied with H.R. 15794, with two exceptions. I might explain H.R. 15794 is the marked up bill which after passage by the subcommittee and by the full committee was introduced at that point by the chairman of the subcommittee, Congressman Purcell with all of the changes in it. Then when it was considered by the full committee for final reading there were two last minute changes made by the full committee, and it is these two last minute changes to which the Department has serious objection, and except for these two changes, and with a few editorial changes with which your committee staff is acquainted, we have no—we are satisfied with H.R. 15794 and hope that it will receive favorable consideration.

Now, these two exceptions are as follows: First, we are opposed to the House action in amending section 7(e) and section 19 in H.R. 15794. These amendments require that all fees received for appeal inspections and Canadian port inspection of U.S. grain and all proceeds from the sale of samples shall be deposited as miscellaneous receipts in the U.S. Treasury. The U.S. Grain Standards Act was amended in 1958 to provide that the Department could accept reimbursement for overtime, night, or holiday work in connection with appeal inspections. Currently, these changes are deposited in a special fund for our use in meeting these extra costs. They amount to about \$100,000 per year and are needed to pay the extra compensation to Federal inspectors who perform this kind of work.

The inspection service in Canada for U.S. grain shipments at certain points along the St. Lawrence Seaway is provided on a fee supported basis and no appropriated funds are involved. Seasonal fluctuation in the workload on the St. Lawrence requires the services of from two to seven inspectors at different times during the year. Collections in Canada this year will amount to approximately \$75,000.

Unless the authorization for the Department to retain these funds is kept in the bill, it will be necessary to request an increase in the 1969 appropriation of between \$175,000 and \$200,000. There are sound reasons why the revolving fund arrangement, as initially provided in H.R. 15794 and as provided in S. 2069, is best. The grain trade wants and needs appeal inspection in the United States. This is true also of initial inspections of U.S. grain moving through Canada for

export. The volume of appeal inspections in the United States, including overtime fees, and the volume of inspections of U.S. grain in Canada varies from year to year. It is impossible, therefore, to estimate accurately in advance the funds which will be needed to provide these services. During the last 5 years the number of appeal inspections has ranged from 24,651 to 37,433 yearly; the overtime fees for appeal inspections have ranged from \$75,551 to \$147,200; and the volume of inspections of U.S. grain in Canada has ranged from 1.5 million tons to 2.9 million tons.

Senator YOUNG. Mr. Chairman, could I ask a question at that point? In the third paragraph on page 2 you state that these charges amount to about \$100,000 per year, and that they are needed to meet the extra compensation of Federal inspectors who perform this work.

Further down you state that unless the authorization for the Department to retain these funds is kept in the bill it will be necessary to request an increase in fiscal 1969 appropriations of between \$175,000 and \$200,000. I thought according to your statement if you were allowed to retain these funds the \$100,000 would take care of it. As I gather if you are not allowed to do this you will require an additional appropriation of nearly \$200,000. I don't quite understand that.

Mr. GRANGE. In this case we have also included the \$75,000 that we are charging in Canada. The next paragraph, Senator Young, says that the cost in Canada amounted to about \$75,000 last year. So the \$100,000, it was \$113,000 last year on the first one, to be exact and the \$75,000 for the Canadian inspection is the reason why in total it would be necessary to request an increase of \$175,000 and \$200,000 in appropriations if these collections should be placed in miscellaneous receipts rather than being retained in a working trust fund as they are now.

Senator YOUNG. As you know the Appropriations Committee never looks very kindly upon these revolving funds over which they have very little control. I wish you would provide for the record what formula you follow in making payments for this overtime and so on.

Mr. GRANGE. We would be very glad to, Senator.

Senator YOUNG. Is it the same as if it were appropriated funds or regular inspection time?

Mr. GRANGE. This is true. Our charges and payments to our men, overtime payments, payments for holiday work are the same regardless of whether the cost would come out of an appropriated fund or whether they would come out of revolving funds. But we will be glad to supply for the record a schedule of our charges for this work and our payment to the inspectors.

(Data referred to above follow:)

U.S.D.A. charges for overtime, holiday, or nightwork in connection with appeals or disputes * * * \$7.20 per hour.

PAYMENT TO FEDERAL INSPECTORS FOR OVERTIME, HOLIDAY, OR NIGHT WORK

Grade	Overtime pay	Holiday pay	Night differ- ential
GS-7 (4th step).....	\$5.34	\$7.12	\$3.92
GS-9 (4th step).....	6.36	8.52	4.69
GS-11 (4th step).....	6.36	10.22	5.62

Note: Plus per diem and other transportation costs.

Senator JORDAN. What was the reason for the amendment made by the House full committee?

Mr. GRANGE. I don't know, Mr. Chairman. There were some questions when I appeared before the subcommittee concerning the matter of handling these collections. The view was expressed, as I recall, by one member of the subcommittee comparable to Senator Young's expression just now that there is a little hesitancy on the part of some Members of Congress as to whether or not sufficient control is retained over such funds.

Of course, trust funds for our inspection and trading work are the common way we provide our voluntary inspection and grading work. Total Federal and State collections last year for this purpose were about \$70 million, of which we received in Federal funds something in the neighborhood of \$30 million. These are accounted for in the same manner as appropriated funds. They are reviewed, as you know, Senator, by the Appropriations Committees each year and as far as we are concerned we are under the same constraints in expending any of these funds as we are for appropriated funds.

Senator YOUNG. But there is an exception being made here. I don't remember how many millions of dollars are involved in the Federal meat inspection, but it would be impossible to get Congress to establish a revolving fund for this purpose. You do exactly the same kind of inspection work. That is probably why the House thought grain inspection fees should be under the same control as meat inspection.

Mr. GRANGE. This proposal would be the same as meat inspection, Senator. You see, we do a lot of overtime work on meat inspection where we charge for it and the applicant pays for it rather than out of appropriated funds and we retain those funds in order to pay the extra costs we have to pay to our men, and without being able to estimate accurately in advance when these extra costs are going to be incurred. This is why, in 1958, the present law was amended in order to permit the Department to retain these overtime and night and holiday charges, not only at export points, but also at interior points, and this is a reversion from a decision that was made 10 years ago.

We were very much surprised, Mr. Chairman, when the bill actually came out of committee containing this last-minute change. We had no forewarning that this action was going to be taken by the committee.

Senator YOUNG. There is this difference, though, between the grain inspection and meat inspection. Meat inspection is paid for entirely by the Federal Government. This is paid for by inspection charges, isn't that right?

Mr. GRANGE. This is largely paid for by inspection charges, Senator, because the licensed inspection agency charges a fee for its inspection. Last year we estimated that these fees amounted to approximately \$11 million.

Now, the Federal cost of supervising and administering the Grain Inspection Act is paid for by appropriated funds. The total appropriation last year was approximately \$2.9 million. We collected approximately \$700,000 last year for our appeal work and in addition to what we collected for overtime and Canadian work.

Senator BOGGS. Does that go into a revolving fund, that \$700,000?

Mr. GRANGE. No, sir; I get to that next which is another proposal that we have as part of the proposed bill.

Senator BOGGS. Excuse me.

Mr. GRANGE. The only thing that went in the revolving fund, Senator, was the overtime, holiday, and night work under the Grain Standards Act, and the Canadian collections which currently are being conducted under the authority of the Agricultural Marketing Act of 1946.

Senator BOGGS. Do you make a report on the revolving fund when you go before the Appropriations Committee?

Mr. GRANGE. Yes, sir.

Senator BOGGS. You have a breakdown.

Mr. GRANGE. We have a report of all of our trust funds and revolving funds in much the same manner as we do on appropriated funds.

Senator BOGGS. Yes. Thank you.

Senator YOUNG. What did you say? I didn't quite get that last statement.

Mr. GRANGE. I said in response to Senator Boggs' question that we did report to the Appropriations Committee as to the expenditures, collections, and balances in our revolving funds yearly when we——

Senator YOUNG. Not as a part of your testimony though?

Mr. GRANGE. Well, Senator, it is part of the notes which we submit with our appropriation proposals. It is part of our testimony quite often, sir, because we are queried concerning these funds, and——

Senator YOUNG. Thank you.

Senator JORDAN. You may proceed, sir.

Mr. GRANGE. Thank you, Mr. Chairman.

We strongly urge that as originally provided, as provided in S. 2069, the Department should be authorized to use all appeal fees which are collected and retained and all money obtained from the sale of surplus Federal samples of grain to partially offset its cost under the U.S. Grain Standards Act. During the last fiscal year, these collections amounted to about \$700,000. It is the Department's recommendation that it should retain these collections and that there should be a corresponding reduction made in the Federal appropriation for the administration of this act from about \$2.9 million to about \$2.2 million.

The reason for this recommendation is that the volume of appeal work is highly unpredictable. It fluctuates greatly by markets and by seasons. Also, no one can foretell what the effect of the proposed revision of the act may be in increasing or decreasing the number of appeals received from grain shippers or buyers. Therefore, it would be highly advantageous for the Department to be authorized to use the appeal fees which it retains so that the available funds can be more closely correlated with the appeal inspection workload. This \$700,000 that we collected this past year does cover the cost of our appeal work. The cost of the appeal work we propose should continue to be funded by these charges. It would appear to us good financial management if we could retain these funds, cover our costs of appeal out of these funds, reduce appropriation accordingly, and be able to go up or down dependent upon the volume of appeal work rather than having to estimate a year or 2 years in advance as our budget material is being prepared, what the workload is going to be insofar as the appeal work is concerned, and insofar as the total treasury

balance is concerned, it would have no effect one way or the other. The amount going to miscellaneous receipts would be reduced by \$700,000, for example, currently, and the amount of appropriations would likewise be reduced by the \$700,000.

So, we are recommending that not only the original language of the present act be restored as far as the overtime, holiday, and night-work is concerned, but in addition to that we are recommending language as provided in S. 2069, and initially provided in the marked-up bill, H.R. 15794, where we would retain all of the collections for appeal—overtime, nightwork, sale of samples—whatever the source of the collection might be.

Senator BOGGS. Is that the way you do it now or is this a change?

Mr. GRANGE. The latter part, regarding the \$700,000, Senator Boggs, is a change. Presently \$700,00 goes to miscellaneous receipts and we get an appropriation of this amount to cover these costs.

Senator BOGGS. I see.

This proposal would not require appeal fees to be refunded where the appeal is sustained, but the Department has advised informally that no change is contemplated in the present system of charging Federal appeal fees. What is the reason for not being more specific concerning refunding of appeal fees? I don't understand that.

Mr. GRANGE. Senator, we have advised formally, I would say, that we have no desire or intention of changing the system of refunding or not charging to be more exact, not charging an appeal fee except in those cases where it does show that the original inspection was correct. If we reverse the original inspection then we do not charge an appeal fee.

Senator BOGGS. If you reverse the original inspection.

Mr. GRANGE. Yes, sir. It is expressed in different ways. To me it is plainer in my language to say it—

Senator BOGGS. In other words, you feel it is the Government's responsibility if you reverse it?

Mr. GRANGE. This is the theory. The original inspection was not correct and, therefore, the applicant for the appeal should not have to pay the costs—

Senator BOGGS. I see.

Mr. GRANGE (continuing). Of the appeal. This is done in other similar commodity inspections.

Senator BOGGS. I see.

Mr. GRANGE. We have no desire to change this. We have said officially and formally we would not change it. This is up to the grain trade. The \$700,000 does cover our costs.

Senator BOGGS. Yes.

Mr. GRANGE. So the man who guesses wrong is paying the full cost of the appeal. If this is the way the grain trade wants it, there is no reason why, as we see it, the Department should differ.

Senator BOGGS. I think that is right.

Mr. GRANGE. We did not, in drafting this bill, make specific provision for continuation of this language, because we thought: Why put a restriction like this in here? Who knows, another 50 years from now—this is the first time this act has been reworked in 50 years—and another 50 years from now perhaps the majority of the grain trade

would have some different ideas concerning how these appeal fee charges should be handled.

Technically, also, we wanted it left out, because it says we are supposed to collect in advance whenever you appeal, and then we will see how you come out, and if you come out all right, we will refund your money. Well, they perhaps did it that way once many years ago, but that was so long ago that those of us now there have forgotten. The actual practice is that we do not collect in advance. In most of these places, applicants are billed monthly, and so technically we have not been following the provisions of the statute. This is another reason for leaving out this particular language. But we have no intention of proposing a change in this particular system as long as the grain industry wants it conducted in this manner.

Senator BOGGS. I see.

Senator JORDAN. In the case of cotton I wondered if it is something like this. If there is a dispute between the buyer and seller of cotton, samples are then sent to the arbitration board in Atlanta, and whoever loses pays for it. If the shipper says, "I think this is up to the grade you bought," and the arbitration board sustains him, the man who made the complaint has to pay the arbitration fee; or the buyer if they uphold the buyer in his contention it was not up to grade, then the shipper pays it. Does this work the same way in some of these inspection cases?

Mr. GRANGE. This is a modification now, you see, of the system followed in grain. In the case of cotton, there is a charge made in all cases, unlike grain.

Senator JORDAN. That is correct.

Mr. GRANGE. It depends upon who is the winner or loser as to which one is expected to pay for that charge——

Senator JORDAN. That is right.

Mr. GRANGE (continuing). In the case of cotton.

Now, in the case of grain, there is no charge made, you see, if it turns out that the original inspection was incorrect and the original inspection is reversed.

We have different systems in the different commodity groups. Trade practice, trade custom, and so forth have resulted over a period of years in somewhat different approaches, and as far as we are concerned we see no need to try to standardize these approaches. Whatever seems to fit in and be the most acceptable within a particular industry group to us is the most desirable way of handling it.

Senator BOGGS. What would be the estimated cost of an appeal?

Mr. GRANGE. \$9 per carload is our present charge for appeal inspection, if there is an appeal fee to be charged.

Senator BOGGS. Yes.

Senator JORDAN. You may proceed, sir.

Mr. GRANGE. Second, there are two exceptions that we have to H.R. 15794. The first one has to do with funding, which we have just discussed. The second one, we are opposed to the House action in amending section 10(a) from the original provision of H.R. 15794 so as to authorize withdrawal of inspection service as an administrative sanction against violations of the act only if the person had first been "convicted" of a criminal violation. We believe that the original wording of H.R. 15794 under which such withdrawal would be authorized

in case of commission of "any repeated or flagrant violation" should be retained. Otherwise, the constructive contribution of section 10 in protecting the integrity of the official grain inspection service is largely nullified. Criminal convictions against individuals or business firms for violation of agricultural statutes like this one are rare. In many instances although the violation may be irrefutable, the identity of a person cannot be established adequately for the purpose of filing criminal charges. Effective means are needed to protect the great majority of the industry against the actions of a few dishonest persons. We believe that, in order to provide this protection, section 10(a), as set forth in H.R. 15794 originally, should be retained.

Further, we believe that adequate safeguards against any capricious or unreasonable use of this administrative authority is provided in H.R. 15794 because service cannot be withdrawn except in cases in which it is determined that the person or firm has committed "repeated or flagrant violation" of section 13 of the act and that providing inspection would be inimical to the grain inspection service. Further, before inspection can be refused, the respondent must be afforded opportunity for a hearing at which all evidence against him must be produced by the Department, and any decision by the Department to refuse service is subject to review by a Federal district court prior to withdrawal. The difference in this particular section is that as H.R. 15794 was originally approved by the subcommittee and by the full committee, it said that service could be refused if a person had committed a repeated or serious violation. It was changed at the last minute, as this other one was changed, to say that service could be refused if a person had been convicted of a violation. They changed the word "committed" to "convicted" and they left out the limitation providing for the fact that it had to be a serious or repeated violation. We would much prefer the original wording for the reasons stated. This would bring such refusal of service under the U.S. Grain Standards Act into alinement with our other inspection and grading services—cotton, tobacco, fruit and vegetables, meat, poultry, and so forth. We believe that over a period of years that we have demonstrated for those very few cases where we do have serious problems of violations of the slugging or altering certificates—alteration of certificates is a vicious practice that a few resort to—that when there is serious and repeated violations of this nature, to say that we had to wait until that person had been convicted, which chances are he probably never would be, because the district courts are too loaded down for one reason to be too much interested in cases of this kind and, second, if it were done it would be 2 or 3 years from now before you could take any action, we think that it would be in the best interests of the service and the best interests of the industry to retain the original wording and grant authority to the Department to be able to withdraw or refuse official inspection if a person has been, has committed serious or repeated violations. Again this is subject, of course, to a hearing. We have to produce all of our evidence. Our witnesses are subject to cross-examination, of course, by the respondent's attorney, and also it is subject to appeal to the Federal district court before the refusal could become effective if the person thinks that we have acted without proper justification.

In conclusion we believe that the proposed legislation is important in gearing Federal marketing services and regulations to meet the needs of the modern-day grain industry. We are most hopeful that the 90th Congress will take favorable action on it.

In the relatively short time that the 90th Congress has at its disposal, we hope very much that we could get such action.

Thank you, very much, Mr. Chairman, and we shall be glad to try to answer any further questions you or the other committee members may have.

Senator JORDAN. Thank you very much, Mr. Grange.

Senator Young, do you have any questions?

Senator YOUNG. I have no questions.

Senator JORDAN. Senator Boggs, do you have any further questions?

Senator BOGGS. I have a couple. I can certainly commend you on your testimony, Mr. Grange. It has been helpful to me and I apologize for getting in a little late and you may have covered some of these points.

But section 17 is a new section, as I understand it, and it provides for examination of records, issuance of subpoenas, attendance of witnesses, witness fees, penalties for failure to attend to testify, and so forth. Is there any special background which dictated the addition of this section?

Mr. GRANGE. Yes. The original bill, S. 2069, as far as this particular section is concerned—it is probably not the same identical number now—accomplished this by making reference to the Federal Trade Commission Act and the Federal Communications Act. The purpose of this was to set up procedures for the conduct of hearings. To provide, for example, if a witness testified at one of these hearings this could not be used against him. To provide for payment of expenses, to provide not only what could be done but also restraints on the Federal side.

Senator BOGGS. This applies chiefly to these appeals cases?

Mr. GRANGE. This would apply whenever we had reason to conduct a hearing which in practically all instances would be limited to these cases of considering refusal of inspection, and to have ground rules for the conduct of such a hearing is, of course, desirable, if not essential. Because of questions that were raised concerning this, Senator, it was mutually agreed that it would be desirable to spell these out in detail in the act itself rather than by referencing other statutes.

Senator BOGGS. General agreement has been reached on that with the industry?

Mr. GRANGE. As far as I know general agreement has been reached on that with the industry.

Senator BOGGS. I have asked some of these questions because I am not too experienced in this field as the members can readily understand.

Senator JORDAN. Go right ahead and ask any questions you want to.

Senator BOGGS. Thank you.

Since grain inspection would become voluntary instead of mandatory would that tend to reduce the Department's inspection force or general appropriations requirements?

Mr. GRANGE. It is a difficult question to speculate on, Senator. There are many places where in our judgment there would be no decrease in the volume of inspection. There are others along the lines of what

we were talking about earlier, more flexibility in getting shipping point inspection, where there actually could be an increase. There are some inspections that are now received simply because the law makes it mandatory that probably would no longer be continued.

Now, the total net effect, Senator, is hard to predict.

Senator BOGGS. It would be based upon your experience as you went along, I presume?

Mr. GRANGE. Yes, sir.

Senator BOGGS. Would this legislation, as you have recommended it, have any effect directly or indirectly on individual farmers or individual producers. How would you approach that?

Mr. GRANGE. Well, when you say would it have any effect directly or indirectly on individual producers, I think the answer would have to be yes, because, of course, the individual producer is affected some way or the other by the marketing system for his grain. The direct effect would probably not be great. Most official inspection is provided at some place other than the country production point. To the extent that this would offer greater facility to move the inspection back nearer the producer, why then, of course, he is going to become more and more affected by it. This is one of the objectives—

Senator BOGGS. It is a beneficial effect?

Mr. GRANGE (continuing). Of this proposal.

Grain inspection is farther away usually from the individual producer than most of our other inspection for grade operations are concerned. Cotton classing, under the Smith-Doxey Act, for example, is directly involved with the producer and our certificate is issued to the producer.

Tobacco inspection is performed on the warehouse floor at the time the grower is selling his tobacco at public auction. We get farther away from the producer in grain inspection than most of the other places.

Many have the view that to the extent it does give the producer greater knowledge, more information as to the actual quality and grade of his grain that this can be brought nearer to him, that to this extent it would offer further benefits than he is now able to obtain.

Senator BOGGS. Thank you.

Senator YOUNG. Mr. Chairman, I would like to ask one question: This would bring the drawing of samples right down to the farmer level, to his local country elevator, because they would draw a sample through these new devices. Where does the Federal inspection come in, what part will the Federal Government have in this inspection?

Mr. GRANGE. Well, if a local co-op elevator is making use of official inspection, the Federal department would administer and supervise that inspection, that licensed inspection agency in the same manner it does for the others, and would handle appeal inspections if there were any appeals in the same manner that it would handle other appeals.

Senator YOUNG. If my information is correct, the Minneapolis Exchange, for example, will require that this local elevator be bonded. Would the Federal Government inspect them at the Minneapolis Grain Exchange or under various established inspecting agencies now in the States or at what level?

Mr. GRANGE. Well, the licensed inspection agency would do all of the initial inspection, Senator Young. We only do the initial inspec-

tions in Canada and under the proposed law this system would be continued. This is specifically laid out in H.R. 15794 so it would be the licensed inspection agency, either State or private, with whom the exchange or cooperative elevators would deal with in obtaining official inspection.

Senator YOUNG. Let me give you a specific case: If a local country elevator has a grade established on a truckload or boxcar load of wheat, and this is sent to the Minneapolis Grain Exchange, where does your inspection service come in? Or do you come in at all?

Mr. GRANGE. We would come in only to the extent that we would supervise the work of that licensed inspection agency. We would not come in directly except if there were an appeal. If they appealed they would appeal to the Federal Grain Inspection Office.

Senator YOUNG. You would have nothing to do then with the local elevator?

Mr. GRANGE. Not directly, Senator Young.

Senator YOUNG. But when this sample reaches, say, the Minneapolis Grain Exchange, would you have anything to do with that?

Mr. GRANGE. No, sir. This sample, if they wished an official inspection certificate on it, would be submitted to the—what was the—Minneapolis Railway and Warehouse Commission. It now has a new name which slips my mind at the moment.

Senator YOUNG. I think the changes are long overdue and I think the overall effect of it would be to greatly increase the availability of boxcars, among other things.

Mr. GRANGE. Many persons have felt that this would have the effect that you state insofar as the railway equipment is concerned.

Senator YOUNG. I notice the Senator from Montana is waiting to be heard. I know he has long been one of the most enthusiastic supporters of these changes.

Mr. GRANGE. Yes, we have had many discussions concerning the possible effect of removing some of these mandatory inspection requirements insofar as the official sampling and inspection are concerned.

Senator BOGGS. Did you cite any precedents for this revolving fund as you recommend? Are there precedents?

Mr. GRANGE. Yes, sir. The meat inspection, for example, is one. We have many of our operations that are carried out either entirely or partially from the collections. In some cases they are handled as trust funds, in other cases they are handled as reimbursements to the appropriations.

Senator BOGGS. There is precedent for it?

Mr. GRANGE. This is the more common way——

Senator BOGGS. Okay.

Mr. GRANGE (continuing). Senator, of handling this rather than being the exception.

Senator YOUNG. What meat inspection has revolving funds?

Mr. GRANGE. As far as the overtime and holiday fees are concerned, Senator Young.

Senator YOUNG. Aren't these appropriated funds?

Mr. GRANGE. No, sir.

Senator YOUNG. These are not derived from inspection charges?

Mr. GRANGE. Yes, sir. These are inspection charges for overtime work, Senator Young.

Senator YOUNG. That is right. There is a charge for overtime?

Mr. GRANGE. Yes, and this is retained and used to pay our additional costs of this premium pay, and does not revert to miscellaneous receipts. This runs into millions of dollars a year insofar as meat and poultry inspection are concerned.

Senator YOUNG. The only fee charged for meat inspection is for the overtime and holiday work.

Mr. GRANGE. Yes, sir.

Senator YOUNG. Yes.

Mr. GRANGE. Overtime and holiday work.

Senator JORDAN. Senator Metcalf, we are glad to have you with us and we are glad to have you make any comment or ask any questions you would like at this time.

STATEMENT OF HON. LEE METCALF, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator METCALF. Mr. Chairman, I have a very brief statement, and after listening to the testimony here I would even like to make it more brief, have it put in the record and then make a brief summary.

Senator JORDAN. It will be put in in its entirety.

Senator METCALF. For a long time, as Senator Young has said, I have been a proponent of doing away with this outdated grain probe system that is the only valid system of inspection—

Senator JORDAN. Did you want to ask the witness any questions?

Senator METCALF. No, I do not.

Senator JORDAN. Thank you very much, both of you, for being with us.

Senator METCALF (continuing). And substitute for that the scarce modern electronically timed inspection system that has already been described to this committee. I don't need to go into it except to say that it is in the grain spout or the spout of the elevator which electronically takes a sample from time to time. These are barred and steel vaults and protected much better than under the present system.

The Department of Agriculture, as already indicated, has worked this out with meticulous accuracy and guarantees it.

I want to bring out, Senator Boggs, the importance of this, as was just briefly indicated, to the individual farmer.

Senator BOGGS. Yes.

Senator METCALF. The importance is that the Great Northern, and Northern Pacific Railway, tell me it will mean a great deal of difference in the turnaround of boxcars. It means the farmer won't have to be waiting with his grain laying in the field in the rain, while a boxcar—during the boxcar shortage that happens to us every year—is side-tracked some place back in the elevator waiting for a grain probe inspection.

Secondly, it will permit the new modern, deep, hopper cars that are 12 or 14 feet deep that a probe won't even reach, and so this bill—I have authorized this S. 272—but the bill that is before you, the House bill, does have a provision for the voluntary inspection for the use of modern electronically timed hopper inspection, such as this, as Senator Burdick and Senator McGovern and I have been suggesting over the years, and I urge not only the passage of the bill for the other pur-

poses, but the retention of that provision so that we can at least modernize this inspection procedure.

(The prepared statement of Senator Metcalf follows:)

Mr. Chairman, grain inspection and sampling methods have changed surprisingly little in half a century. Today, they are almost identical to those used in 1916. The hand probe holdover from railroading and barging days, is still the valid means of inspecting and grading grain produced in the United States. This sampling system is hopelessly outdated, inefficient and impractical.

Senator Burdick, Senator McGovern and I have therefore introduced S. 272, which will provide the first real improvement in the old, imprecise inspection system. Our bill allows the grain industry to lower its drawbridge and cross that illusory moat so long surrounding her castle of isolation, and enter the twentieth century.

We are proposing an inspection system based on automatic grain sampling. These samples would be taken at the country grain elevators. With fast automatic sampling it would not be necessary to sidetrack for days, awaiting inspection, boxcars with grain needed to feed the world's hungry. Nor would it be necessary to let a farmer's fine grain crop go to ruin waiting for boxcars outdoors in the rain. Automatic samplers can sample correctly the grain going into any type of carrier. In fact, fair sampling by the old-fashioned hand probe is made next to impossible by the 12 to 14 foot depth of the modern hopper cars.

The modern mechanical sampler is installed in the elevator grain spout and is electrically timed and operated. At exact intervals it collects small cross sections of the flow of grain. Collected samples are kept pending inspection in steel "security boxes" as safe as bank vaults. The superiority of the new mechanical spout samplers over hand probes has been proved by the most meticulous Federal tests.

The enactment of this bill would benefit all concerned. It would dramatically alleviate the boxcar shortage by providing up to twenty-seven thousand heretofore unavailable cars. It would provide greater flexibility and efficiency in freight car utilization. The grain samples acquired would be far more representative. Definite economic advantages to shippers, carriers, and taxpayers would result from less costly procedures, fewer delays and more effective operations. Machine samples would abolish or at least reduce the plugging of grain cars, and put new zip and go into the flow of grain to market.

The amendments to the U.S. Grain Standards Act approved by the House include a provision similar to that proposed in S. 272. I hope that this subcommittee and the Senate will concur.

Thank you.

Senator JORDAN. Thank you very much. Senator Young, do you have any questions?

Senator YOUNG. No.

Senator BOGGS. It helped me. I wanted to know how the bill affected the individual farmer and producer.

Senator JORDAN. Thank you. I know you have given this a great deal of thought and I know your testimony is well received at this point.

Senator METCALF. Mr. Chairman, I am just delighted with the possibility of having it culminate into legislation.

Senator JORDAN. Thank you.

Senator METCALF. Thank you.

Senator JORDAN. Mr. Hunt, Mr. Sam Hunt.

Mr. Hunt is with the Grain & Feed Dealers National Association.

We are glad to have you with us, sir.

Mr. HUNT. Thank you, sir.

STATEMENT OF SAM E. HUNT, JR., CHAIRMAN, GRAIN GRADES COMMITTEE, GRAIN & FEED DEALERS NATIONAL ASSOCIATION, FORT WAYNE, IND.

Mr. HUNT. I have a very short statement here that, with your permission, I would like to read.

Senator JORDAN. You may proceed as you desire, sir.

Mr. HUNT. Mr. Chairman and members of the committee, I am Sam E. Hunt, Jr., vice president of Central Soya Co., Fort Wayne, Ind. I am appearing on behalf of the Grain & Feed Dealers National Association, of which I am the chairman of the grain grades committee.

The Grain & Feed Dealers National Association was established in 1896 and since 1906 has been active in the standardization of grain grades. We are a nationwide and industrywide association whose 1,700 members handle the commodities of producers and turn them into food or feed or export them to the four corners of the world.

Mr. Chairman, we appreciate this opportunity to appear before your committee to express our strong support of H.R. 15794. Our national association played a prominent role in the enactment of the U.S. Grain Standards Act in 1916. Changes in the manner of doing business, technological advances in handling grain, sampling, and testing, and the method of transporting the commodities have changed considerably since 1916 with no major changes in the law.

Four years ago the national grain grades committee began consideration of the changes necessary to update the act to meet the requirements of the industry. Our national association unanimously concluded that changes were necessary in order to facilitate the merchandising of grain.

These changes would permit the buyer and seller of grain in interstate commerce to make a mutual determination as to whether an inspection were necessary rather than have the law so dictate.

We also saw the need for obtaining an official inspection on a submitted sample of grain, whether the sampling were official or guaranteed by the party to the contract.

Finally, we recognized the high regard for, and use of, U.S. grades and we wanted them to retain these high standards. We firmly believe that the bill now before your committee will accomplish these objectives.

Our grain grades committee has met on many occasions with other groups within the industry and with officials in the U.S. Department of Agriculture to go over each bill which was introduced during the legislative process which has brought this matter before your subcommittee.

With two minor changes H.R. 15794 will be excellent legislation in an area which has long required modernization. These changes are:

(1) Set up a revolving fund for the Federal inspection service so that the service will be responsive to the needs of the industry rather than depositing Federal inspection fees and proceeds from sale of samples into miscellaneous receipts and using appropriated funds to support the service; and

(2) Require that refusal of inspection service be based on the commission of repeated or flagrant violations of the act, rather than on the conviction of a single violation.

The members of the grain and feed industry are almost in unanimous support of this legislation. Our members pay for the inspections and are desirous of receiving good service for the fees they pay. H.R. 15794 will achieve this aim.

Mr. Chairman, we thank you and the members of your committee very much for this opportunity to appear before you.

Senator JORDAN. Thank you very much, Mr. Hunt. It is a fine statement and it covers the situation extremely well.

Senator Young?

Senator YOUNG. Can I ask a question?

Mr. HUNT. Yes, Senator Young.

Senator YOUNG. As I understand it, if this bill passes, a feed grain purchaser in the East, for example, would not necessarily have to have Federal inspection. He could rely on inspection of local elevators or feed dealers someplace in the Midwest from whom he purchases as to what the grade and quality is; is this correct?

Mr. HUNT. This is correct.

The buyer and the seller would mutually agree at the time that the transaction was entered into as to what type of grade would apply, whether it would be an official inspection or whether it would be destination inspection, whether it would be shipper's inspection or whatever. Each transaction could be tailored to the needs of the buyer and the seller.

Senator YOUNG. Actually, much of the grain transactions are that way now. If the Federal Government enforced the law as it is, they would have had a lot of court cases on their hands; is that not correct?

Mr. HUNT. This is true; yes, sir.

Senator YOUNG. Yes.

Senator BOGGS. You are for that revolving fund, as I get your testimony.

Mr. HUNT. Yes, we are. We feel this would be a sound way to approach this matter, Senator Boggs.

Senator BOGGS. As you view this proposal, does it make any basic changes in the relationship between the Department of Agriculture and the State grain inspectors?

Mr. HUNT. Your question is, does it affect the relationship between the Department and the State——

Senator BOGGS. Would it cause a conflict?

Mr. HUNT. I do not believe that it would cause any conflict.

Senator BOGGS. I do not know.

But just as Senator Young pointed out, between the purchaser and the seller there would be an agreement on the grain and its inspection.

Senator YOUNG. I understand much of it is handled that way now, perhaps some of it illegally because of an outdated law. I do not think the Department has even tried to enforce the old law. This would legalize something that is already going on, and it is very realistic. I think it is necessary.

Senator BOGGS. In other words, on a shipment to the East, for example, the seller and the buyer might agree to accept a State inspection?

Mr. HUNT. It would accept whatever inspection was agreed on by the parties at the time the transaction was entered into.

Senator BOGGS. Between the parties?

Mr. HUNT. Between the parties, between the buyer and the seller.

Senator BOGGS. There is no mandatory inspection, I see.

Mr. HUNT. There would be no mandatory inspection.

Senator YOUNG. It might mean some big purchaser of feed grain in Delaware would want to require the agency sampling it be bonded so that he would be sure the grade he was buying was actually what is represented to be but this would be up to the buyers and sellers, as I understand it.

Mr. HUNT. That is correct.

Senator JORDAN. It would still be a voluntary agreement between the purchaser and the seller?

Mr. HUNT. Yes, sir; it would be a matter mutually arrived at between buyer and seller. Neither of the parties would have any undue influence on this. This would be a matter of mutuality between the buyer and the seller just as the quantity of grain that is being bought or sold and the grade of grain being bought or sold, these are matters to be determined between the buyer and the seller, and the matter of inspection would be a matter decided between the buyer and seller.

Senator BOGGS. You cannot see anything here that would be prejudicial to anybody in the East who would want to buy any grain then?

Mr. HUNT. No, sir.

Senator BOGGS. Nothing?

Mr. HUNT. Nothing whatever.

Senator YOUNG. I do not think it would change your system at all. In fact, it might help it.

Senator BOGGS. That would be good.

Senator JORDAN. That is pretty well true of a great many commodity dealings right now. The buyer and seller can have an agreement on what inspection they are going to require and what rules they are going to live by.

Mr. HUNT. That is correct.

Senator JORDAN. They always do and they usually agree on who might be the arbitrator, because it could be they would pick out an individual who is not a Government inspector at all and agree to abide by what he says about the grade. It may be a local person in whom they have confidence, and it is still a voluntary situation entirely.

Thank you very much, Mr. Hunt. I appreciate your testimony.

Mr. Sadler, National Association of State Departments of Agriculture in Richmond, Va.

Mr. Sadler, we are glad to have you with us today, sir, and we will be glad to hear from you.

STATEMENT OF B. W. SADLER FOR MAURICE B. ROWE, ON BEHALF OF THE NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE, RICHMOND, VA.

Mr. SADLER. I, too, have a prepared statement, Senator, and with your permission I will read from the statement.

Senator JORDAN. You may proceed.

Mr. SADLER. I hope I will be able to answer any questions.

Senator JORDAN. Thank you, sir; you may proceed.

MR. SADLER. My name is B. W. Sadler, assistant director of the Virginia Department of Agriculture and Commerce. Today I am presenting a statement for Maurice B. Rowe, commissioner, Virginia Department of Agriculture and Commerce, in behalf of the National Association of State Departments of Agriculture.

The National Association of State Departments of Agriculture wishes to be recorded as being opposed to certain provisions of H.R. 15794.

We have been very much concerned about this bill and have followed very closely deliberations of the House Agriculture Committee on this and other companion bills.

The commissioner, representing the National Association of State Departments of Agriculture, appeared before the House subcommittee in opposition to certain provisions of H.R. 11162, a previous bill on this proposed legislation. Even though H.R. 15794 is an improvement over previous bills, it still contains certain objectionable provisions. The National Association of State Departments of Agriculture is seeking a type of legislation that is acceptable to the States.

The proposals we suggest for revision of this bill follow in proper sequence :

1. Section 5 appears to deal adequately for grain being shipped from the United States. We are concerned, however, about the absence of any guidelines for grain shipped in interstate commerce. It is our opinion and those of other state departments of agriculture that irreparable damage will be done to the grain merchandising system if official inspection is not required for all grain which is sold by official grade.

We, therefore, recommend the heading of this section be changed by deleting "for certain export grain", and enumerating section 5 to section 5(a). We recommend the addition of a section 5(b), as follows :

Whenever standards are effective under section 4 of this act for any grain, no person thereafter shall ship or deliver for shipment in interstate commerce any such grain which is sold, offered for sale, or consigned for sale by grade unless such lot is officially inspected in accordance with such standards on the basis of official or submitted samples: *Provided*, That, grain may be shipped by grade from a point where there is no licensed inspector available to a point where there is no licensed inspector available by promptly transmitting to the purchaser or consignee an invoice covering such grain bearing a statement: "This grain not officially inspected: grade subject to dispute privilege under the United States Grain Standards Act."

The difference in section 5(a) and 5(b) is that submitted samples which are samples submitted by the owner of the grain to a licensed inspector would be accepted as meeting the requirements of the Act for interstate commerce and not acceptable for grain leaving a port for a destination outside the United States.

Also, grain could be shipped by grade in interstate commerce without inspection where there is no licensed inspector available at origin or destination. We believe this provision would satisfy those who claim shipments are being delayed waiting for someone to draw an official sample.

2. We are recommending that section 6(b) be changed to include grain in interstate commerce. As this section is written, it prohibits false or misleading statements only for grain shipped out of the United States.

Leaving out interstate commerce must have been an oversight. Certainly it was not intended to imply it was all right to use false and misleading statements in interstate commerce.

3. We are recommending that the last sentence in section 8(a) be changed to conform to the wording in the existing Act, which is:

No person shall certify or otherwise state or indicate in writing, that any grain for shipment or delivery for shipment in interstate or foreign commerce, which has been inspected or graded by him, or by any person acting under his authorization, is of one of the grades of the official grain standards of the United States, unless he holds an unsuspended and unrevoked license issued by the Secretary of Agriculture.

We have reason to believe that USDA intended under the authority of this section to license all people who perform any functions resulting in an official inspection, including not only the inspector, but also the seasonal employees whose duties are primarily to probe lots of grain and open car doors, most of whom would be classified only as laborers and whose employment in numerous instances lasts only a short period.

Since the licensed inspector is responsible, and properly so, for any person acting under his authorization, licensing all people who perform any inspection function is unnecessary and would create an undue hardship on the inspection agency in employing temporary personnel to augment the permanent staff of licensed inspectors during periods of heavy grain movement.

Senator YOUNG. Mr. Chairman, could I ask a question at this point?

Senator JORDAN. Yes.

Senator YOUNG. Would you require that every local country elevator, such as in North Dakota or any grain-producing State, be licensed by the Department of Agriculture?

Mr. SADLER. The local department—

Senator YOUNG. The local country elevator, which is shipping grain out and using these new sampling devices, would you require that they be licensed by the Federal Government?

Mr. SADLER. If he wanted an official inspection of an officially drawn sample, then it should be a licensed inspector for that inspection point.

Now, if at that point, Senator, the licensed inspection agency would want to assign a man of his choosing to sample or to supervise the sampling of these automatic samplers, to draw the sample and submit it to the inspection officer, that would be permissible. It would not be necessary—but if we are going to use the sample from an automatic sampling device, the device, as it is now, is approved by the U.S. Department of Agriculture as giving satisfactory results. This sampler is operated under the supervision of somebody from a licensed department.

Senator YOUNG. This gets at the real heart of much of the opposition there was in the past and the workability of these automatic sampling devices.

If this little country elevator has to buy this sampling device which, I think, costs around \$2,000, and then has to have some Federal inspector supervise it, the costs would be prohibitive.

Mr. SADLER. He would not be required to do this. Only if he wants to sell it—if he wanted to seal it by official grade and do his own sampling, then he can submit a sample to a licensed department. If

there is no licensed inspector he could ship subject to the U.S. Grain Standards Act.

Senator YOUNG. I understand, for example, the Minneapolis Grain Exchange will require that this local elevator be bonded, so when he sends in the sample they will be sure that his sampling is correct and honest. If this were required, would that not meet the objections you have?

Mr. SADLER. We have alluded to that in the past, if it was permissive under law that the local warehouse having an automatic sampler be bonded, and that would be acceptable in a court of record as meeting the requirements of the act, we would have no—I personally would not have any—objection.

But it is not a question in regard to bonding the warehouseman.

Senator JORDAN. The bonding procedure there would be a matter of the integrity of that particular elevator?

Mr. SADLER. Yes.

Senator JORDAN. Did this sample represent what he took out of that wheat?

Senator YOUNG. Inspection of wheat, for example, varies considerably. You can have a State inspection that might be overturned by a Federal inspection. They can vary a little. It is not that uniform.

Mr. SADLER. That is right.

Senator JORDAN. Yes.

Did you have any other questions? If not, you may proceed.

Senator Boggs, do you have other questions?

Senator Boggs. No.

Senator JORDAN. All right, you may proceed.

Mr. SADLER. We recommend that the wording on lines 21 and 22 of section 9, as reads: “ * * * or has otherwise inspected grain * * * ,” be changed to read “ * * * or has knowingly or carelessly inspected grain * * * ” This change, we believe, more clearly states the intent and is more in keeping with justice and fairplay.

5. Recommend that the entire portion of section 11, beginning with words “Provided, however,” on line 24, be deleted.

In our opinion, this portion of section 11 is unnecessary, and that licensing employees of grain elevators or warehouses to perform official sampling functions is not in harmony with the purposes of this bill, and does, in fact, involve a conflict of interest.

We cannot understand the necessity for this provision when the owner of the grain is given so many choices in merchandising his grain. His choices are:

- (1) Official inspection of an officially drawn sample;
- (2) Official inspection of a sample drawn and submitted by him to a licensed inspector;
- (3) Provision for shipping by grade without inspection if there is no inspector at origin or destination; and
- (4) Provision for shipping grain without inspection by using a brand name, trademark, or any other type of description which is not false or misleading.

6. We recommend that the portion of section 20 beginning with the word “Except” on line 19 be deleted.

My testimony, Mr. Chairman, deals with S. 272 and S. 2069. I am not sure, but I gathered from the previous statement that the hearing so far is—has only dealt with—H.R. 15794.

Senator JORDAN. Largely, yes.

Mr. SADLER. Well, our position that we have taken, I will continue to read it, with your permission.

Senator JORDAN. Yes, go right ahead.

Mr. SADLER. Our opposition to S. 272, dated January 12, 1967, is that while changes are being considered for the improvement of the entire act, consideration of limited amendments should be delayed.

This bill, S. 272, seems to make an attempt to provide a change in the present act for accepting noncertified samples as meeting the requirements of the act, but we do not believe it goes far enough in protecting the trade from misrepresentation.

Since we understand that S. 2069 is very similar to H.R. 11162 which the Commissioner testified in opposition to certain provisions before the House committee in September 1967, our position on S. 2069 will be the same as that on H.R. 11162 and H.R. 15794.

On behalf of Commissioner Rowe and the National Association of State Departments of Agriculture, I appreciate the opportunity to appear before this committee.

Senator JORDAN. Thank you very much.

Senator Young, do you have a question?

Senator YOUNG. Mr. Chairman, I think that Mr. Sadler has given us something to think about, and I would think we would want the comments from the Department of Agriculture with reference to these proposals. I think I would also welcome other appraisals of their statement.

Senator JORDAN. Fine, thank you.

Senator BOGGS. I would agree with Senator Young.

Senator JORDAN. Would you like to have Mr. Grange come up for a few questions or would you like to have him submit a statement?

Senator YOUNG. They could submit a statement.

Senator JORDAN. Fine.

Senator BOGGS. I agree.

Senator JORDAN. Mr. Grange, you will of course have a copy of this transcript and we would like to have your thoughts on the testimony he has raised here from the Department of Agriculture. Can you do that at a later date, reasonably soon, because I believe you said we would get out reasonably soon.

Mr. GRANGE. Yes, we would be very glad to do that.

Senator JORDAN. Thank you very much.

(The information follows:)

U.S. DEPARTMENT OF AGRICULTURE,
CONSUMER AND MARKETING SERVICE,
Washington, D.C., June 25, 1968.

Hon. B. EVERETT JORDAN,
U.S. Senate.

DEAR SENATOR JORDAN: On June 17, 1968, the Senate Subcommittee on Agricultural Research and General Legislation held hearings on H.R. 15794 and related bills to amend the U.S. Grain Standards Act. At the close of the hearings, you requested us to submit comments in writing regarding the testimony and the recommendations by the various witnesses. Our comments follow.

The testimony by the following organizations appeared to support the Department's testimony in full or in substance:

Grain and Feed Dealers' National Association.
National Federation of Grain Cooperatives.
National Grain Trade Council.
Association of American Railroads.
International-Stanley Corporation.

The testimony by the following organizations supported the need for a modernization of the present Grain Standards Act but included recommendations for certain changes in H.R. 15794 beyond those recommended by this Department:

National Association of State Departments of Agriculture.
National Association of Chief Grain Inspectors.

Our comments on the recommendations by the National Association of State Departments of Agriculture (NASDA) follow in the order in which they appeared in the testimony:

1. Section 5. The recommendation, if adopted, would in large part continue the present outmoded mandatory inspection requirements in interstate commerce. Inspections based on samples submitted by an interested party would meet the inspection requirements; whereas, such inspections do not meet the inspection requirements under the present Act. As indicated in our testimony on June 17, the Department and the grain industry are strongly in favor of permissive inspection in interstate commerce (with the exception of grain shipped in containers bearing an official grade designation or represented as officially inspected—see sections 13(a) (5) and (6)).

The recommendation by NASDA, if adopted, would result in a requirement which would be discriminatory, impractical to enforce, and a burden on interstate commerce. Sampling procedures, supervision of samples, and custody of samples are as important in determining the true grade of a lot of grain as is the inspection of the sample itself. It would be inconsistent and anomalous to retain by Federal law the requirement of compulsory inspection as to the U.S. grade of a lot of grain and allow it to be based on a sample submitted by the shipper, purportedly drawn from and representative of the lot in question. Mandatory inspection as to the quality of a lot of grain is simply not compatible with submitted samples, whose authenticity and reliability are unknown to the certifying inspection agency.

For the above reasons, we prefer the present wording of section 5.

2. NASDA recommended that section 6(b) should be amended to provide for criminal sanctions against falsely describing the grade of grain in domestic commerce. Omission of such sanctions from H.R. 15794 was not an oversight. The Department and the grain trade agree that, if a person is dissatisfied with or questions the grade of any lot of grain, he can request official inspection to verify its true grade. Providing for criminal penalties, if a person knowingly quotes the wrong grade for a lot of grain, would present a most difficult enforcement problem and would serve no useful purpose. This point of view was clearly brought out by Mr. Purcell in questioning witnesses at the House hearings. Since all export grain sold by grade must carry an official inspection certificate, there is good reason to provide criminal penalties for misrepresenting the grade or otherwise falsely describing such grain.

For the above reasons, we prefer the present wording in section 6(b).

3. Section 8(a) prohibits any person from performing official inspection functions under the Act unless he is licensed or authorized to do so by the Secretary. Section 13(a) (9) makes it unlawful for any person to falsely represent that he is a licensed inspector or is otherwise licensed under the Act.

Clearly the wording in section 8 provides authority to license samplers and all other official inspection personnel. Sampling is one of the important functions in the inspection and grading of grain. It is essential that only competent samplers be permitted to obtain official samples, whether they are temporary

or permanent employees. It is visualized that the licensing of samplers would be handled at the local level in a prompt and timely manner.

Further, the recommendation as drafted by NASDA would prohibit many members of the trade from invoicing grain by grade or otherwise stating the grade of grain on merchandising documents.

For these reasons, we prefer the present wording of section 8.

4. The recommendation by NASDA to insert "knowingly or carelessly" in referring to the improper inspection of grain would clarify the wording of one of the grounds for refusal, suspension, or revocation of licenses and would make the wording consistent with current usage. Accordingly, we would have no objection to the adoption of the recommendation.

5. The proviso in section 11 is considered important because, subject to trade acceptance, it would pave the way for a meaningful shipping point inspection service on grain bought and sold at the country elevator level. The authority would be exercised only upon a showing that a need for such service exists.

For these reasons, we prefer the present wording of section 11.

6. The exception in section 20 is designed to remove the mandatory inspection requirement on domestic shipments at the earliest practicable date after enactment of the bill. A period of 30 days is considered sufficient for promulgating needed changes in existing regulations. Additional time would prolong an unneeded and unwanted requirement.

For these reasons, we prefer the present wording of section 20.

Our comments on the recommendations by the National Association of Chief Grain Inspectors (NACGI) follow in the order in which they appear in the testimony:

1—There is only one area at present where two official grain inspection agencies are operative. The latter of the two agencies was approved with the understanding that it would take steps to combine with the first agency. The term "area" can best be defined in regulations which will be promulgated to effectuate the purposes of the proposed legislation in accordance with the rulemaking provisions in title 5 of the U.S Code.

For these reasons, we prefer the present wording of section 7.

2—This recommendation is substantially the same as NASDA recommendation No. 3. We prefer the present wording of section 8 for the reasons stated in our comments on the NASDA recommendation.

3—In our view the provision for the triennial relicensing of inspection personnel is necessary for assuring that licensees are competent and are informed on current standards, regulations, and instructions. If a licensee is found, after opportunity for hearing as provided in the Act, to be incompetent or otherwise not eligible for relicensing we believe that his license should not be renewed. The fact that the employing agency might not be able to discharge the employee is considered secondary to the need to maintain the integrity of the inspection service.

For these reasons, we prefer the present wording of section 8.

4—Not all conflict of interest situations involving inspection personnel can be visualized in advance. Item (c) in section 11 is designed to provide a means to prohibit conflict of interest situations in addition to those specified in items (a) and (b). As such new situations are encountered, the necessary changes in the regulations would be made in accordance with the administrative procedure provisions of title 5 of the U.S Code.

For these reasons, we prefer the present wording of section 11.

5—This recommendation is substantially the same as NASDA recommendation No. 6. We prefer the present wording of section 20 for the reasons stated in our comments on the NASDA recommendation. There are very few States which have mandatory grain inspection statutes. We plan to work closely with the States that have such laws to help effect needed changes.

Needed regulations under the bill will be developed in cooperation with interested trade and inspection organizations and in accordance with the intent and spirit of the rulemaking provisions in title 5 of the U.S. Code. Interested parties will be given opportunity to submit comments during development of proposed changes. They will also be given an opportunity to present written data, views, and arguments when the proposed changes are published in the Federal Register. Full consideration will be given to all relevant comments in drafting the final regulations.

If we can be of further service, please let us know.

Sincerely yours,

G. R. GRANGE,
Deputy Administrator, Marketing Services.

Senator JORDAN. Mr. Inglimo, president of the National Association of Chief Grain Inspectors from Chicago.

STATEMENT OF JAMES V. INGLIMO, PRESIDENT, NATIONAL ASSOCIATION OF CHIEF GRAIN INSPECTORS, CHICAGO, ILL.

Mr. INGLIMO. With your permission, I have Mr. William James——

Senator JORDAN. Give your full name and title and your accompanying witness, please, sir.

Mr. INGLIMO. Thank you.

I have a brief statement to read, too. Time is getting short.

Mr. Chairman and members of the Senate Agriculture Committee, my name is James V. Inglimo, and I am superintendent of the Division of Grain Inspection, Department of Agriculture, State of Illinois.

I am appearing here in behalf of the National Association of Chief Grain Inspectors, of which I am president. Joining with me, to my right, is Mr. William L. James, a supervisor with the Department of Agriculture and Commerce of the Commonwealth of Virginia, and also a director of the National Association of Chief Grain Inspectors.

Our statement is in connection with bill H.R. 15794 whereby this association recommends that further revisions be made in some sections of the bill in order for it to be more effective and more acceptable.

The National Association of Chief Grain Inspectors is composed of members of federally licensed grain inspectors from State departments of agriculture, boards of trade, grain exchanges, chambers of commerce, and independent grain agencies who have continuously administered the provisions as prescribed by the Grain Standards Act for a period of over 50 years, and by serving in this capacity we feel obligated in making certain recommendations which we believe are very essential.

The following proposals for your consideration are set forth in order of sequence:

(1) Section 7, subsection (f)——

Senator Boggs. Let me interrupt.

You are referring to section (f)?

Mr. INGLIMO. H.R. 15794 as reported by the House.

Senator Boggs. Right.

Mr. INGLIMO. It provides that not more than one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area.

We recommend an addition to this paragraph to read that established inspection points now in operation shall not be affected.

We further believe that if this provision should be more specifically defined, especially in the word "area," which could be misconstrued at a later date in representing either a smaller or larger locality. At the present time we have two inspection agencies within a few miles of the area.

2. Section 8, paragraph (a). It is evident that the U.S. Department, under the authority of this section, will license other personnel such as grain samplers. This would create an undue hardship on the inspection agency during the period of heavy grain movement when temporary help is urgently needed. Personnel to be hired for sampling would first be compelled to pass an examination by the USDA and be screened

before the agencies could qualify them for employment. In the case of a State government, this procedure would be impossible.

It is necessary during the grain rush to hire temporary help which in most cases are either high school or college students on their vacation and who can be well trained within a few days.

3. Section 8, paragraph (b). Wherein this paragraph calls for triennially relicensing of grain inspectors, we believe that this provision should be deleted since it would tend to cause suspicion on the integrity of the inspection system. It would also allow discriminatory reexaminations and deny a licensed inspector the rights and privileges of the act.

For example, in the case of the Illinois inspection agency, which employs over 40 licensed grain inspectors, upon reexamination a portion of these inspectors could fail to qualify. Our State government would not be able to remove them from the payroll since they are certified civil service employees, and under the personnel code this does not establish grounds for dismissal.

4. Section 11, paragraph (c). Be engaged in other kind of activity specified by regulation of the Secretary as involving a conflict of interest. This part should also be deleted, because it could easily result in the denial of an individual's constitutional rights by a controversial regulation by the Secretary.

Further, the provision in this paragraph is too broad and can easily engulf a multitude of circumstances. For instance, the mere fact of speaking to an official of a grain elevator or warehouseman could constitute a violation.

Gentlemen, you will not find this section 20 in there; it was an oversight but I will read it to you, with your permission:

Section 20. This section provides the act will become effective 180 days after enactment, with the sole exception that repeal of mandatory inspections requirements for interstate grain shall be effective 30 days after enactment. It is very important that the same amount of time be allotted in this particular instance, especially in States that already possess mandatory statutes, whereby a transition will require policy changing and enactment of new procedures and regulations, all of which may have to be filed with the secretary of state in every State.

Gentlemen, our proposal for revising specific sections of the bill are purely made in good faith and in the best interests of all parties concerned. We did not elaborate extensively in stating many other reasons in support of our declarations duly in order to be more brief and to stress a point. Our chief contention is to enact a good bill, one that will contain mutual understanding and a sound livable working bill.

In conclusion, may I at this time go on record and to request from the members of this committee that the National Association of Chief Grain Inspectors be included in promulgating the regulations pertinent to this act.

Thank you very kindly for the privilege of this association to present their views.

Senator JORDAN. Thank you very much.

Senator Young, do you have any questions?

Senator YOUNG. No, except to say the private grain inspection agencies in my State have similar objections.

Senator JORDAN. They will all be considered, I can assure you.

Mr. INGLIMO. I could elaborate if you want on any points you wish to.

As a chief grain inspector of the State of Illinois, having been there for 30 years, I realize some of the implications this law could provide.

Senator JORDAN. It certainly will be taken into consideration.

Senator Boggs?

Senator Boggs. As in the case of the previous witness, I wonder if Mr. Grange could respond to the points made here.

Senator JORDAN. Yes.

Mr. Grange, is he still here? Mr. Grange, when this is printed, this hearing, I would appreciate it if you and your colleagues would take all these comments and give us the Department's reaction to them and any recommendations or deletion of any of these things or additions which you may, and you can get those to us reasonably soon, I am sure.

Mr. GRANGE. I would be very glad to, Mr. Chairman. It would facilitate matters if we could have a copy of that statement.

Senator JORDAN. Of this statement?

Mr. GRANGE. Yes, sir.

Senator JORDAN. You shall have a copy of each one of those statements today.

Mr. INGLIMO. Thank you very much, Mr. Chairman. You are very kind.

Senator JORDAN. Mr. Danielson.

STATEMENT OF JOHN C. DANIELSON, ASSISTANT GENERAL COUNSEL, CHICAGO & NORTH WESTERN RAILWAY CO., CHICAGO, ILL.; MARTIN CASSELL, GENERAL SOLICITOR, CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO., CHICAGO, ILL.; AND D. A. BAUMGARTNER, GENERAL SUPERINTENDENT OF TRANSPORTATION, ATCHISON, TOPEKA & SANTA FE RAILWAY CO., CHICAGO, ILL., ALL REPRESENTING THE ASSOCIATION OF AMERICAN RAILROADS

Mr. DANIELSON. Mr. Chairman, my name is John Danielson; I am a lawyer with the Chicago & North Western Railway. I would like to introduce Mr. Cassell, on my left, and on my right is Mr. D. A. Baumgartner, who is transportation superintendent with the Atchison, Topeka & Santa Fe Railway in Chicago.

Senator JORDAN. Give your full names and whom you represent, and we will be glad to hear from all of you.

Mr. DANIELSON. We would like to speak on behalf of the Association of American Railroads as to why the railway industry supports this bill, and briefly, Mr. Chairman and members of the committee, we have three substantial reasons why we are concerned with the transportation impact of H.R. 15794 and S. 2069, which are before the committee. These are the reasons:

It costs our customers, the country grain elevators and the shippers of grain, and the wide territory in the West which we serve, three times, to deal with railroads to ship their grain, the expenses that they would otherwise bear when they ship by truck or by barge against which there is no effective grain inspection control now. It costs our

country shippers, first in the inspection fees which they pay, which you have already heard, coming to the amount of \$70 million annually for their shipments.

Second, it costs them in freight rates, which must be increased to support the poor utilization we get out of these cars during the period of harvest especially and during the general portion of the year, because these delays in car use cost money.

And the third reason is that during the fall when all the crops of grain come on practically simultaneously, it costs our shippers most seriously and it costs us an opportunity to provide them with service because of the shortages engendered by this inspection requirement which many of our shippers tell us they do not want, they do not want to pay for, and they do not require in their dealings with their ultimate buyers.

Now, Mr. Baumgartner is here to describe in detail the inspection process, but realizing the pressure on the committee's time, we had hoped Mr. Cassell's statement, which will highlight our view, might be taken as read and Mr. Baumgartner's submitted but we are all available to answer any questions that the committee may have.

Senator JORDAN. Thank you very much.

Mr. Cassell, you may proceed, sir.

Mr. CASSELL. Thank you, sir.

My name is Martin Cassell, and I am in the law department, Mr. Chairman and members of the committee, of the Chicago, Rock Island & Pacific Railroad Co. The Rock Island, like the Santa Fe, the two railroads which are presenting witnesses before you today, is a granger railroad. Grain earns more revenue for the Rock Island than any other commodity. It is the second most important wheat carrier in the southwest—the Santa Fe having the largest volume.

I am giving this detail as to the importance of grains to these railroads merely as an example of the importance of grain to all railroads in the West.

I might interpolate right here that Mr. Danielson speaks of the fall; he is a more northern railroad and corn stuffer, where for us in the southwest, Mr. Baumgartner and myself, we are right in the midst of the harvest today. Our harvest begins the last week of May and goes on through July for the wheat and the grain sorghums.

I know I watch the car supply on our railroad very carefully, and but for the rains we would be deluged currently for orders for cars. We have had to accumulate cars, both boxes and hoppers, as has Mr. Baumgartner, in anticipation of the flood of grain we have at this time.

Senator YOUNG. Would you explain briefly the difference between the inspection when grain is handled by truck and by railroad; there is a considerable difference?

Mr. CASSELL. Yes, sir.

I think that—I know it was fully gone into before the House, and I am not familiar with all the testimony of the Department here, but trucks largely are not inspected, and that I think is true of a great deal of the barge grain.

The reason why trucks are not inspected is because they do not operate between points where inspection is available, or it is because of the nature of a truck operation where they operate over a highway

and over a very—their routes are varied and not fixed the way ours are; the ability to get these people to inspect them is not as immediate.

I think the Department of Agriculture estimates that well over 50 percent of truck grain is not inspected. In fact, I think about the only place where any volume takes place, I think there is a fair amount down at some of the Gulf ports and at some of it, one or two of it, interior markets and even there it takes place in a very different way than it does for a railroad.

The truck does not have to go out and be put on a hold track for a day or two, as we do.

I have a study here that we made last April that will be referred to in the testimony, this is our study, which showed that we averaged better than 4 days, about four and a half days—4.3, to be exact—at all stations and it ran from a low of 1 day up to 20 days consumed at an inspection—

You can just imagine a trucker with his truck being held for not only 1 day but up to 20 days for an inspection. It just is not done on the trucks, and when it is done, it is done, I have seen it done, at the port, with inspection taking place as the truck is being dumped into the unloading facility at the port, where it is going immediately to elevation through the hopper underneath. So there is no delay of the truck. The truck can be unloaded in something like 6 to 9 minutes total elapsed time, and that is when the inspection takes place, the grain sampler is taken at that time, the outflow.

I think there are times when it is taken with a probe, but this I have seen myself take place. I do not purport to be an inspector, an expert in this, but I have seen it done.

Does that answer your question, sir?

Senator YOUNG. Yes, it does.

Senator JORDAN. Proceed, sir.

Mr. CASSELL. The other side of the coin and, of course, of importance to this committee, is the fact that these railroads supply a very important service to the agricultural community, be it producer, handler, or processor. I am sure that the members of this committee are only too aware of the importance to the Nation's agricultural economy of the railroad car supply.

It is our purpose here to explain how certain provisions of S. 2069 and H.R. 15794, by permitting shippers and receivers of grain to dispense with in-car inspections or inspections they find necessary for their purposes, will contribute importantly to making available a much larger supply of grain cars, especially during the critical harvest season.

This would also, we feel, reduce the amount of complaints received by many congressional delegations during the period of peak demand for, despite the use of trucks for many grain movements, at many country points the availability of railcars determines the ability of a shipper to move his crop.

I know you receive complaints because we in turn are informed that you receive complaints during the harvest season. I am sure the Senator from the Dakotas is well aware of this.

Senator YOUNG. It has been a continuous problem.

Senator JORDAN. We get them in North Carolina, too.

MR. CASSELL. That is truth; whenever there is a car shortage induced by the grain crop, it affects the entire economy, whether it is the lumber shippers in the Northwest or what have you.

Senator YOUNG. Of course, we blame the Eastern railroads for keeping the cars.

Senator JORDAN. Are they the open hopper, or are they like the cement cars?

MR. CASSELL. No, they are a covered hopper with a central loading hatch. There was a very interesting question asked by you as to what this does to the shipper, and I had occasion to be out in Iowa one time when they were very much concerned about the use of the covered hopper. When the grain comes into the hopper, it naturally goes to the center hatch and forms a pyramid or a cone, and the heavier—so it has been explained to me—the heavier grain, the sound grain goes to the outside, whereas the foreign matter, the chaff and broken grain, goes to the center. It is later underneath the spout and when the probe is pushed down under the center hatch, it gets a disproportionate amount of foreign material and it affects the grade of the corn. So that the probe, the use of the probe on a hopper car sometimes does penalize the shipper on the grade he receives for his corn and, consequently, the price.

Senator YOUNG. There really is not any good, accurate way of sampling grain in these big jumbo cars by the use of the probe. About the only accurate way is to get a sample from the spout as the grain goes into the car. The railroads are going more and more to these jumbo cars. It makes for cheaper rates and much quicker handling for the local grain elevator.

MR. CASSELL. It is greater economy; the dump for a hopper is nothing more than a grating underneath, whereas if you have volume handling of a boxcar, if you have ever seen the cumbersome expensive machine which picks up a boxcar slowly, shifts it forward to empty that car, you can readily see where it is a much more efficient piece of equipment.

Senator YOUNG. I think the jumbo cars haul around 3,000 bushels of wheat as against 2,000 bushels in the largest of the old ones.

MR. CASSELL. In the area of grain inspection, the interest of the railroads and that of our customers coincides; for both are concerned with providing country shippers with fast, dependable transportation at the lowest possible cost. Railroads are the only transport agency regulated by the ICC in handling bulk agricultural commodities.

This competitive disadvantage is increased by regulations under the Grain Standards Act which are not applied equally against our competitors, unfairly penalizing producers and users of rail service.

A 1965 study by the U.S. Department of Agriculture¹ revealed that trucks alone in 1963 took 48.3 percent of all corn, 42.8 percent percent of all soybeans, and 44.9 percent of grain sorghums away from country elevators in the grain-producing heartland of our country. This tonnage is interstate and intrastate, of course.

By 1965, an Iowa State University report² revealed that from that

¹ "Changes in Transportation Used by Country Grain Elevators in the North Central Region" (MRR 724, July 1965).

² "Transportation of Grain and Mixed Feeds From Iowa" (SR 70, February 1967).

State railroads handled only 57 percent of the corn, 44 percent of the soybeans, and only 34 percent of the mixed feeds moved out of the State, so that of interstate grain it is very optimistic to assert that railroads handle one-half of the tonnage.

This decline has occurred almost entirely in the 20 years since World War II, and emphasizes a fact which must be clearly understood at the outset. It is this:

Transportation is an intensely competitive industry. There was testimony before the House as to the impossibility of enforcement of the inspection requirements in the 1916 statute against our unregulated competitors. By applying this obsolete law to but one contender for this commerce, Congress, albeit unknowingly, is placing an unwarranted burden on a basic industry: the American railroads.

I can only agree with Chairman Purcell's remarks—page 91 of the printed report of the hearings in the House—that:

If you cannot enforce a law, change it to one you can enforce.

As the only form of transportation against which effective enforcement of the inspection requirement has been found feasible, the railroads have an important stake in this legislation.

It is the farmer who ultimately pays for inspections, first, in the inspection charges; second, in freight rates increased sufficiently to cover the added expense to railroads of setting cars aside at a central point and holding them for in-car inspection of the grain; and third, by shortages of cars when inspection services bog down at harvest.

If, as most producers—who ship by truck—find, it is desirable to dispense with expensive inspection services, Federal law should give them the opportunity to forgo this unwanted and unnecessary burden when they ship by rail also.

Right here, I might interpolate, we are not complaining about the inspectors and their efficiency. It is just the fact if you do stop a car you have a switch in to a track and a switch out of the track and lose time there. This is lost time for inspections that not only unnecessary, but unwanted in many cases; and has nothing to do about inefficiency and working of the inspectors. We know many of them personally. They are fine men who do their job efficiently, but this is merely the fact if you do this act, this is what takes place.

The railroads, by bills which they pay initially and charge back against country shippers—under rules common to the major grain-markets—are aware that the burden of this mandatory inspection service is borne ultimately by the producer, as a reduction in the sale price for this grain.

Our own rebilling for inspection services is itself paid most often by the country elevator operator; but this man, in turn, reduces dividends to members of his cooperative or makes a deduction in the purchase price paid to the farmer in this amount. This elevator operator is an experienced grain buyer and blender, so that he knows very well the grade that he bought from the producer and the grain that he then—after blending—loaded into a car. We have even had elevator operators complain to us about the needless expense of inspection—which they must buy, but do not want—where they ship to their cooperative terminal elevator at a market, or to the merchandising outlet which services their line of elevators; for the sale which is said to

trigger the inspection requirement is so artificial as to be almost illusory in such circumstances.

The shipping documents are often similar to a sale transaction, and the State inspection regulations require grain cars generally to be set out at railroad yards for inspection, no matter how technical the transaction. These local laws find a footing for levying on interstate grain only by virtue of the 1916 law's mandatory inspection requirement in present section 71 of title 7, United States Code; for the local inspector, whether a State employee or hired by a private firm, is said to perform the mandatory work as "an inspector licensed under this chapter."

There is another facet of the problem. In the last 10 years, there have been broad rate reductions in grain rates in an effort to recapture the tonnage being siphoned away by unregulated truck and barge services.

At this point these rail grain rates are fast approaching the out-of-pocket cost of service, so that without relief from the archaic requirements of this 1916 act, we face being priced out of the vital market these railroads were built to serve.

I would like to emphasize that the railroads' appearance here is for a very limited purpose. There are many parts of S. 2069 and H.R. 15794 which do not relate to transportation in any way, and we are in no way injecting ourselves into those sections of the bills and their effect on the grain industry.

Specifically, the railroads are interested in those portions of S. 2069 and H.R. 15794 which relate to permissive sampling and the use of submitted samples. We are interested in permissive sampling; in that, as has been testified by other witnesses before the House and, I presume, your committee, this should reduce substantially the amount of sampling that would take place. It would be reduced to only those instances in which the buyer or the seller had an immediate interest in obtaining a sample. If neither buyer nor seller wants a sample, they will be free to dispense with this request entirely.

We are interested in the provisions for mechanical sampling and a submitted sample; in that, if all sampling were done through submitted samples, whether this sample were obtained by a mechanical sampler or otherwise, it could be done other than at a time while the grain is in transit in railroad equipment.

Mechanical sampling—which would be taken in either the inbound or ontrun loading equipment—would be entirely outside the railroad car and would in no way delay its movement.

Mr. Baumgartner, who is an operating man, explains in detail how the physical operation of sampling grain in railroad cars consumes a very large portion of the useful time of our car fleet in a way which the bills before you would render entirely unnecessary.

There is one section of S. 2069 and H.R. 15794 which carries the substance in which we are interested; namely, section 7(b). This is found on pages 8 and 9 of S. 2069, and page 9 of H.R. 15794.

In line 25 on page 8, and lines 1, 2, and 3 of page 9 of S. 2069, and lines 1 and 2 of page 9 of H.R. 15794, there is the language which establishes permissive sampling. Lines 4 and 5 of S. 2069, and lines 2, 3, 4, and 5 of H.R. 15794—page 9 of both bills—which provide for regulations to be drawn up to implement the act, contain the authority for the prescribing of regulations which would govern the taking and

use of submitted samples, samples which might be obtained by mechanical sampling, sometimes referred to as automatic sampling.

At this point we would like to call your attention to the fact that in line 4 of H.R. 15794, page 9, there is a specific reference to the use of submitted samples. In order that there may be no question about the use of submitted samples, we would like to suggest that like language be incorporated in S. 2069 at the same place; that is, in section 7(b), page 9, line 3, insert "whether by official sample, submitted sample, or otherwise," after the words "respect to grain."

I am not informed as to why there is that difference in language between the two bills. I merely know that they do, that it is omitted in S. 2069. Why the omission occurs I do not know.

I assume that the regulations would adopt the mechanical or automatic sampling, but we think it would be preferable to make it specific in the bill.

Senator JORDAN. We will check that out.

Mr. CASSELL. Right here I wish to emphasize again that the railroads have no interest in how these regulations are set up to guarantee the integrity of the sample or other matters to which we understand the grain trade is directing its attention. We are only concerned that Congress enact legislation which would authorize permissive sampling and that such sampling as does take place could be done entirely outside the railroad car.

Mr. Baumgartner gives you the figures on the amount of cars that this would make available for the benefit of the shipping public, not only for the handling of grain, for I need not tell you that when there is a car shortage in this country, the car shortage falls on all alike, whether it be the lumber shipper in the Pacific Northwest, or the man who wishes to move manufactured commodities in Ohio—the entire shipping public would benefit from the additional utility of the rail equipment.

If there is time for Mr. Baumgartner, he has a statement. If not, I would like to refer to his figures.

Senator JORDAN. You may—Mr. Baumgartner may go ahead.

Mr. CASSELL. Thank you, he will follow me.

At this point I think it is appropriate to refer to the report prepared by Commissioner Bush of the Interstate Commerce Commission accompanying the Commission's communication to the House committee which, I believe, is being presented to this committee as well.

This report covers this same area and demonstrates that the Interstate Commerce Commission is well aware of the public benefits that would accrue from enactment of this legislation, specifically through those portions of the legislation which would make possible permissive sampling and set up the machinery for effecting inspection through submitted samples.

I think that the Congress is also aware of the fact that the Commission has had before it two separate investigations in just this year concerning car shortages and the methods by which they might be relieved. While I did not take part in these investigations, I have read the orders of the Commission in these matters.

In Ex parte 241, in a report and order issued on June 18, 1964—printed at 323 ICC 48—at page 60, the Commission found that a chronic freight car shortage existed and undertook a further inves-

tigation to determine what relief or solution might be available to alleviate this shortage in the public interest.

In a later report—incentive per diem charges, 332 ICC 11, October 25, 1967—the Commission found that sporadic shortages did occur, but that:

A number of encouraging developments have taken place recently which should contribute to improved services. Among these we note the increased cooperation between railroads and shippers leading to the construction of storage facilities and traffic movements which aid in the reduction of relatively short-term excess demand for cars in the movement of grain. Proposed changes in laws relating to inspection of grain and the development of more rapid inspection techniques also signal improvements in freight car utilization.

It is, of course, these bills now before you to which the Commission is making reference and its conclusion that they promise significant improvements in freight car utilization buttresses the original memorandum by Commissioner Bush, to which I have drawn your attention previously.

There is one further matter I would like to call to this committee's attention. One of the benefits of Federal legislation is uniformity. One of the benefits provided by legislation now before this committee in S. 2069, as well as H.R. 15794, is the uniformity of regulation that would prevail throughout the States.

It is our hope that the legislation now before you committee will be adopted which will provide, through paragraph 19 of both S. 2069 and H.R. 15794, for uniform regulation governing interstate grain movements, leaving the States entirely free, of course, to regulate grain shipments within their borders.

As a sidelight, I would like to call your attention to a circumstance concerning sampling that has become more critical as our covered hopper car fleet increases. The covered hopper cars have a material advantage for the shipper, not only in freight-carrying capacity, but the fact that they may be loaded and unloaded more quickly and economically. There is actually a financial benefit to the shipper through the use of these cars.

However, I have been told by country elevator operators that they have found that they are sometimes penalized in using covered hoppers at locations where samples are taken with a hand probe.

They explain that they receive a discount at the market when the car is sampled by a probe, a discount occasioned by the fact that there is a separation between the sound grain and the chaff and foreign matter in the process of loading of such cars, and that as the probe is pushed through the central hatches of the covered hopper's roof, it picks up a disproportionate amount of the chaff and foreign matter, whereas, where you take a random sample of the entire car, by a mechanical sampler, a fair test of the quality of all grain in the entire car is obtained.

I merely give this as an additional advantage obtained by the shipper through the use of mechanical sampling and submitted samples, advantages we believe attainable under both S. 2069 and H.R. 15794.

Not long ago, in a conversation at the Chicago Board of Trade, I was told that this is a problem for the market, too, and that samples are taken by a pelican as the grain flows out of the hopper car in order that there may be a check on the grade, to verify the hand-probed

sample—a double inspection, which would be unnecessary with a mechanical sampler.

It will be noted that the rail position, as presented by Mr. Baumgartner and myself, does not support S. 272. S. 272 covers only the use of submitted samples. We support the use of submitted samples, but believe that S. 2069 and H.R. 15794 are preferable in that they go beyond this to provide for permissive sampling and uniformity.

As stated previously, we take no position on the other provisions of these more comprehensive bills which we leave to the grain trade.

To summarize, the railroads support the enactment of S. 2069, and believe it would be desirable to incorporate the substance of H.R. 15794. Enactment in this session would provide prompt relief to our grain-shipping customers throughout the country.

We thank the committee for this opportunity to express our views on this important legislation.

Senator JORDAN. Thank you very much.

Senator Young?

Senator YOUNG. No questions.

Senator JORDAN. Mr. Baumgartner, you have something you would like to add?

Mr. BAUMGARTNER. I have a written statement, Senator. I do not know whether you want to take the time to listen to it.

Senator JORDAN. How long is it?

Mr. BAUMGARTNER. It is about 10 minutes, I would say.

Senator JORDAN. Could you summarize it and leave your statement to be put in the record in its entirety? We have two or three other witnesses and we would like to finish this today. Time may catch us, because we are not allowed to sit while the Senate is in session except during the morning hour.

Mr. BAUMGARTNER. Yes. It goes into some explanation of the processes that we must go through, switching processes in particular, that are involved in the grain inspection either at an intermediate station or origin or destination, and of course, emphasizes the need for these cars, because of the car shortages that have existed chronically, you might say, since the end of World War II.

Actually, if I could read about two paragraphs here, I think maybe that might summarize what was said previously in the statement.

Senator JORDAN. Certainly you may.

Mr. BAUMGARTNER. This appears on page 9 of the statement. And I am quoting from it.

In 1965, U.S. railroads originated 1,441,490 carloads of grain. As indicated in the foregoing, there is an average detention of 4.5 days for inspection for each carload shipment of grain.

If, upon enactment of S. 2069 and H.R. 15794, the sampling of cars could be done mechanically at origin and destination, or entirely omitted under permissive sampling, the improved utilization could, in effect, increase the national boxcar and covered hopper ownership by as much as 17,772 cars based upon 1965 grain loadings—1,441,490 grainloads times 4.5 days per load, divided by 365 days per annum—which would be of considerable help in meeting peak harvest demands for equipment.

I think that is self-explanatory just how valuable this would be to the railroads. There is only one thing you can do besides this, and that is increase your ownership by this extent and, as I say, this is the potential advantage that lies with the enactment of this legislation, and we feel pretty close to it and we hope that it will be enacted.

(The prepared statement of Mr. Baumgartner follows:)

My name is D. A. Baumgartner. I am General Superintendent of Transportation of the Atchison, Topeka and Santa Fe Railway Company, headquartered in Chicago, Illinois. Grain is of course the largest revenue producer for Santa Fe and for most western railroads. Grain requires a larger portion of the car fleet and because of its seasonal requirements for transportation, causes a more serious car supply problem than any other commodity.

Because of the importance of grain to American railroads, I want to explain why we feel that S. 2069 and H.R. 15794 would improve our service to agricultural communities throughout the United States. American agriculture, of course, is typified by seasonality, and in the grains, especially, one crop is harvested right after the other. The seasonal surge of wheat, corn, soybeans and milo places a maximum strain on the railroads' car-carrying capacity very dependably in the summer and fall of almost every year, from the harvest of winter wheat in Texas in May until the corn, milo and soybeans come in in October and November.

This problem is national in scope, because while box cars and covered hopper cars from all over the country are needed in the granger states to transport grain, lumber shippers in the west and shippers of cotton and lumber in the eastern and southern states lack cars to move their own commodities. Because of the effect S. 2069 and H.R. 15794 will have upon car utilization, by reducing the delays attendant upon repeated grain inspections, we feel that farmers throughout the country (our customers) will benefit by:

(1) having available a car supply thousands of cars greater than that presently available for use; and

(2) being relieved of many unnecessary merchandising expenses (borne by the farmer in reduced net prices for his grain).

1. SAMPLING AND INSPECTION SERVICES PERFORMED FOR THE BENEFIT OF GRAIN TRADE BY THE RAILROADS

The service performed by the railroads in gathering grain from country elevators and bringing it to market has been molded by the necessity of permitting grain to be inspected or sampled on its way to market, pursuant to requirements of Federal law which are unique in transportation. The U.S. Grain Standards Act since 1916 has required inspection by a federally-licensed inspector to establish the official grade on all grain sold by grade and moving by rail in interstate commerce. While the Federal law should be satisfied by inspection of grain at its country origin prior to loading it into cars, or at destination after the cars have been unloaded, presently the samples on which inspection is made are drawn from the grain while it is loaded in railroad box or covered hopper cars. I have never seen any such inspection of grain moving in barges or in trucks into these terminals where we operate, so I believe the U.S.D.A. witnesses when they explain how this inspection is required only on railroad shipments, as a general rule.

Inspection privileges and the switching incident thereto are peculiar to the transportation of grain by rail. Carloads of grain arriving at an inspection point are switched to special designated tracks where samples of grain are taken from the cars. After such samples have been graded, the cars are switched from the inspection tracks and handled in accordance with billing instructions received from the grain's owners. While on the inspection track the cars may be handled once or several times in order to switch out other grainloads for which billing has been furnished. This problem is aggravated at the time of harvest. A check by the western railroads of carloads of grain sampled at over 80 different points in 1966 and 1967 revealed that grain cars receive up to three or four inspections each, and *average* over one and one-half inspections per carload of grain throughout the year. This extra service in connection with the handling of grain takes place in the handling of no other commodities.

A grain car handled for inspection receives two extra switches at the minimum. Since the car is ordinarily not disposed of in one day it usually receives extra switching so that cars for which disposition orders have been received can be

segregated and moved off of the inspection tracks. Harvest congestion usually causes further delays in ordering cars which really strains the physical capacity of our inspection tracks and the limited force of inspectors at major terminals, so that we will often hold cars requiring inspection at stations sometimes 100 miles or more back of these terminals until the destination inspection tracks have been cleared to receive more grain. These delays, of course, occur just when the country shipper needs cars most desperately.

In addition, inspection at interior points back of the primary markets has been provided for shippers by the railroads. By ordering the grain stopped at an interior point in the Northwest for free inspection and diversion, shippers are able to get a grade and sample of the grain into Minneapolis, Duluth and Sioux City and sell in whichever market they can get the best price. In order to accommodate the shippers in this manner and facilitate the marketing of such grain in the Northwest, a great number of interior inspection points have been established. These include Grand Forks, Jamestown and Minot, all in North Dakota; Aberdeen, South Dakota; and Havre, Great Falls and Shelby, Montana. In Minnesota, these sampling points include St. Cloud, Willmar, Glenwood, Staples and Thief River Falls. Here samples are drawn from the cars and sent to Minneapolis and Duluth for inspection by the Duluth or Minneapolis grain exchanges in connection with the marketing of the grain. Those points were established by the carriers in an effort to keep their terminals at Minneapolis and Duluth-Superior open. The sampling points relieve the Minneapolis terminal in particular of the necessity of performing great amounts of sampling, and since the samples usually arrive at Minneapolis or Duluth somewhat ahead or at the same time as the cars containing the grain, disposition of the cars at the terminals is speeded up. If it were not for these sampling points, the Minneapolis terminals would be hopelessly plugged with cars being held for Minnesota sampling and inspection, and terminal operations at Duluth-Superior would be seriously impeded. These operations were described recently by the I.C.C. in *Inspection of Grain at Aberdeen, S.D.*, 303 I.C.C. 507, and *Inspection of Grain at Jamestown, N.D.*, 301 I.C.C. 433. It is interesting that just last year the Minnesota legislature abolished the requirement that all such cars destined to Minneapolis and Duluth be inspected there as well, so long as the car had a prior federal inspection at one of these out-of-state inspection points. The delays caused by these additional inspections (desired by neither the shipper nor the receiver) were a source of tremendous car shortages, especially during harvest.

2. A BRIEF DESCRIPTION OF THE INSPECTION PROCESS ITSELF

The first step in the handling of grain cars arriving at an inspection point consists of separating the cars billed for inspection at the point from other grain cars and placing these cars on inspection tracks. The sampling and inspection is performed while the cars are on the inspection tracks, and the cars will not leave that track until a disposition order, based upon the inspection, has been received by the carrier.

To start the inspection process, the railroads list all arriving cars to be inspected for the grain samplers and prepare and mail manifests on all such cars to the consignees. The sampler then probes each car and sends a sack of the grain sample to an inspection laboratory. Inspection laboratories make a charge for each car being inspected, which charges range from two to ten dollars per car, varying around the country somewhat. For instances, at Minneapolis the charges are:

	Boxcar carload or bulkhead	Covered hopper
Wheat, with protein analysis.....	\$6. 00	\$8. 50
Wheat, without protein analysis	4. 50	7. 00
Flax and barley.....	4. 50	7. 00
Corn and oats.....	4. 10	6. 60
Soybeans and rye.....	3. 75	6. 25
All other grain, buckwheat, sorghum, sunflower seed and safflower seed.....	3. 30	5. 80

At Kansas City and Hutchinson, Kansas the charges for a simple inspection of all grains are:

Boxcar	\$2. 50
Open hopper	4. 00
Covered hopper	6. 00

In some markets these charges are paid in the first instance by the rail carrier on a monthly basis and in turn collected by the railroad from the shipper along with the freight charges. Thus, the carrier in effect keeps the books and performs a collection service for the inspectors. More often this charge is paid directly by the buyer to the inspection agency, although I understand that as a matter of practice in the major markets we serve this charge is deducted from the purchase price received by the farmer, and ultimately borne by him.

These manifests serve as notices of arrival of the cars at the inspection points for inspection purposes. If the grain bulletin is received by 9 a.m., usually, the inspector will take a sample that same day and forward it for analysis. To have such a bulletin by then, the inspection is often restricted to cars which have arrived by 6:30 p.m. the prior night (usually excluding weekends and holidays). Cars bulletined by 9 a.m., are held free of demurrage until 24 hours following the next 7 a.m. (again customarily excluding Saturdays, Sundays and recognized holidays) for disposition orders, so that most often the practice is to stop all sampling and manifesting of cars late in the morning each day, so that the inspection sample can be graded, and the manifest and grade will be received by the consignee (usually a grain firm or processor) at the primary market the following morning. It thus takes a minimum of two days of car detention time to complete the inspection and secure disposition from the consignee and to move the car out. Detention thus usually is higher due to the fact that cars arriving at the inspection point after mid-morning will not be sampled and manifested until the next morning, with disposition orders being received the following day. During harvest congestion longer delays occur.

3. BY SAMPLING MECHANICALLY, AND MAKING INSPECTION OPTIONAL FOR THE BUYER AND SELLER OF GRAIN, AND ELIMINATING INSPECTIONS WHICH THEY DO NOT WISH, S. 2069, AS AMENDED TO CONFORM TO H.R. 15794, WOULD MAKE AVAILABLE THOUSANDS OF ADDITIONAL GRAIN CARS FOR TRANSPORTATION

To determine the time consumed by inspection and sampling of grain cars, a number of the grain carrying railroads in April, 1967 traced the movements of over ten thousand cars handling grain in the west and southwest. The process of setting cars out at hold points, awaiting first the sample and then the results of analyzing this hand sample, and then obtaining an order to dispose of the grain after its owner received the inspection report, consumed approximately three days for these cars each time they were sampled. Data collected by these same railroads revealed that cars of grain are sampled in this way on an average of 1.6 times per car (or that more cars were sampled twice than once, on the average).

[In 1965, U.S. railroads originated 1,441,490 carloads of grain. As indicated in the foregoing, there is an average detention of 4.5 days for inspection for each carload shipment of grain. If, upon enactment of S. 2069 and H.R. 15794, the sampling of cars could be done mechanically at origin and destination, or entirely omitted under permissive sampling, the improved utilization could, in effect, increase the national box car and covered hopper ownership by as much as 17,772 cars based upon 1965 grain loadings (1,441,490 grainloads times 4.5 days per load, divided by 365 days per annum), which would be of considerable help in meeting peak harvest demands for equipment.]

The I.C.C.'s most recent study (in I.C.C. Docket Ex Parte 241) of the peak car shortage in October of 1964 revealed a daily average car shortage of 8,463 box cars (Kline Ex. 217). Thus the projected saving of freight cars by reduced inspection delays possible under legislation such as H.R. 15794 could very well ameliorate the shortages of cars at times of peak harvest demand or other periods of heavy grain loading, to the benefit of a very large segment of our agricultural economy. For this reason, America's railroads strongly support enactment of S. 2069, recommending that it be amended to be identical with H.R. 15794, recently passed by the House of Representatives. By enacting S. 2069 in language identical to H.R. 15794 the Senate would avoid unnecessary conference action, and thus speed action on a bill favored not only by the railroads, but by the transport and grain industries generally.

Thank you, Mr. Chairman and members of the committee, for this opportunity to express the railroads' view on this proposal.

Senator JORDAN. There is another facet that enters into this situation.

While grain or any other commodity is lying on a railroad siding waiting to be delivered to whomever is going to buy it, somebody's money is not earning interest. The shipper or the buyer or somebody is out his entire capital investment in that commodity, whatever it is, and there could be a tremendous amount of money involved at the interest rates people are paying today.

Mr. BAUMGARTNER. I made a quick calculation of just what this might amount to, on 17,700 cars, and on the basis of about \$15,000 per covered hopper, which is the going price presently, that is a little over a quarter of a billion dollars; about \$266 million.

Senator JORDAN. Well, I realize that, of course, but I was talking about the commodities in that boxcar.

Mr. BAUMGARTNER. Yes.

Mr. CASSELL. The inventory of grain.

Senator JORDAN. Yes, it is worth money, too, whatever it is in there, and that has a great deal to do with the profit somebody is going to derive out of this.

Mr. CASSELL. You can take the same number of car days Mr. Baumgartner has mentioned which would be saved and multiply that times the interest rate times the value of the car and you have a sum of money that would support a good many of us in the way we would like to be supported.

Senator JORDAN. I am sure of that.

Senator Young, any questions?

Senator YOUNG. No questions. Thank you.

Senator JORDAN. Thank you very much. We appreciate your testimony. It will be included in its entirety in the record.

Mr. BAUMGARTNER. Thank you.

Mr. CASSELL. Thank you, Mr. Chairman and Senator Young.

Mr. DANIELSON. Thank you, Mr. Chairman.

Senator JORDAN. Mr. Garrett. He is general manager of the Grain Sampling Division of the International-Stanley Corp., of Omaha, Nebr.

STATEMENT OF JOE L. GARRETT, GENERAL MANAGER, GRAIN SAMPLING DIVISION, INTERNATIONAL-STANLEY CORP., OMAHA, NEBR.

Mr. GARRETT. Thank you, sir. In the interest of time, Mr. Chairman, I will permit you to take this statement here and I will limit my remarks to just one or two in support of it.

Senator JORDAN. Thank you very much. I do not like to rush you as a witness, but we do not want to wind up without hearing some of the witnesses.

Mr. GARRETT. No, sir; time is being short. I will confine my testimony as being in support of H.R. 15794, the portions of it that pertain to official certification of submitted samples.

Approximately 2 years ago my company engaged in a joint research program in Senator Young's State to determine the feasibility of sampling grain cars at country elevators by utilization of mechanical spout sampling devices.

Since that time we have installed over a hundred devices and have sent into the market over 8,500 samples from individual cars. The turnaround on the cars by the railroads was checked out on a thousand or so of these cars and the turnaround time was reduced to approximately half.

This is covered in a little more detail in my report, but I wanted to point out who I was and what I was here for, and to answer any questions that you might have about mechanical sampling since it has been kicked around a great deal here how representative it was of the car, and also what it might do to sample these big jumbo hopper cars.

Senator JORDAN. Your experience with those samples derived in that manner has been satisfactory?

Mr. GARRETT. They were within four-tenths of 1 percent of true accuracy based on a known quality or quantity of grain, and this was a research program conducted by the USDA over the past 5 years.

The samplers that we have installed, many of them have been approved by the USDA, they have come out and check-tested them. There is only one flaw in the present system that we have and that is that in order to gain official certification of these samples drawn from these hundred elevators, the regulations of the USDA require that a man babysit with the machine while the car is being loaded.

Now with a hundred elevators presently using this type of device, it is really impractical to have a man stationed at every elevator when they want to load. Many of these, especially in North Dakota, can take several hours. We have cases where they take all day to load a car and it is just impractical to station a man there and paying him the minimum wage required today, and have a rate that is competitive with what the shipper would like to pay.

Senator YOUNG. Would this only be true though when they wanted a Federal inspection?

Mr. GARRETT. This is true when it is to be an official certification. When I say official, the 1916 act requires that all grain that moves in interstate commerce must be officially inspected. So if you want under the present act to have an official certification, a licensed inspector, an employee of a licensed inspection agency must be present while the sampler is working.

This really is unnecessary because the mechanical sampler operates day and night, completely automatic. It even turns itself on and turns itself off. So it is really unnecessary to have an employee present while it is being loaded. The only purpose of this employee is to more or less guarantee the sample, make sure that it is not a biased sample, there has not been any alteration, there has not been any so-called plugging of the car or something of this nature.

We think that 8,500 samples sent to the market today being traded on the Minneapolis Grain Exchange is a testimony to the accuracy of the samples as well as the honesty of the shippers using these devices.

Senator YOUNG. If the Minneapolis Grain Exchange, which is the big one out there, accepted these samples, if a local elevator was bonded, this would get away from the Federal inspection requirements?

Mr. GARRETT. I do not know; it is possible that you might have heard some of our comments about the bonding.

Our employees are bonded, the employees that we have are bonded, and it is quite possible this is where you might have gotten the information.

Senator YOUNG. This would apply even where you were not in the business. Maybe someone else sold the device?

Mr. GARRETT. Right.

Senator YOUNG. If the Minneapolis Grain Exchange wanted to have some confidence in a sample taken by a local elevator with this device, as I understand, they might require they be bonded to make sure that this sample was accurate.

Mr. GARRETT. It is possible. I have not heard anything about it, Senator.

Senator YOUNG. Was my estimate of the cost about right?

Mr. GARRETT. When we first started this research program, approximately 2 years ago, it was approximately \$3,000. However, as a result of the research we have been involved in for the past 2 years, that cost has been reduced to half that amount.

Senator YOUNG. \$1,500?

Mr. GARRETT. Primarily, the first mechanical samplers were used in industries other than grain, like the sugar, fertilizer industry, and in large terminal houses that had a licensed inspector available to come out and sit with it. This was a machine delivered to us for installation in a country house, and the volume there did not require this really elaborate a machine; so, once we got into this research program, we do substantially through volume and also cutting down on the size of the machine cut the cost of it. However, these machines out here, they are in North Dakota, are on a more or less lease basis on a per car basis. This is the way the customer pays for it.

If he uses the machine he pays us a fee, if he does not use the machine it does not cost anything.

Senator YOUNG. What is the fee per carload?

Mr. GARRETT. Well, our part of the fee is approximately \$4, but then he has to pay the lab fee, the inspection fee for the grading, to get a grade in protein, and he has to pay the transportation to get the sample from the country elevator in, to the market, and he has to pay for the labor, but the machine part of it is approximately \$4. It will vary in each area.

We have samples in Iowa and Minnesota and Montana and South Dakota and Nebraska and a number of other States, and the fee varies, but our portion of it is the same. It is about \$4.

Senator YOUNG. Many of the grain concerns now that favor this legislation did not before. I notice the next witness, Mr. Bruce Hendrickson, National Association of Grain Co-ops, is favorable toward it. I think there is practically universal support now from the producers.

Mr. GARRETT. Yes.

Senator JORDAN. Thank you, Mr. Garrett, for your statement. I would like one for the Department of Agriculture to check this.

Mr. GARRETT. Thank you very much, Mr. Chairman and members of the committee.

(The prepared statement of Mr. Garrett follows:)

Mr. Chairman, and Members of the Committee, I am Joe L. Garrett of International-Stanley Corporation, an Omaha, Nebraska railroad supply company. My company has served the railroad industry and the grain trade nationally for the past twenty years.

I am appearing today in support of S. 272 and the portions of H.R. 15794 that pertain to the "official" certification of submitted samples.

Approximately two years ago, my company began a joint research program with several railroads and grain companies located in North Dakota, South Dakota and Montana. The purpose of this program was to determine the feasibility of sampling grain cars at country elevators by utilization of mechanical spout sampling devices.

Patents on mechanical samplers date back to the 1800's and many industries, other than the grain industry, have used these devices for fifty years or more. Mechanical sampling of grain is very simple—a small section of the existing loading spout is removed and a mechanical sampler is installed in its place. At predetermined time intervals, a small, hollow sample tube moves across the entire grain stream, obtaining a small representative sample of the grain as it flows into the rail car. This sample flows from the sample tube by gravity to a locked collection cabinet. A sample is obtained from each 50 to 200 bushels of grain loaded.

There were three major reasons for starting this joint research program:

1) In order to compete with other modes of transportation, most American railroads have published tariffs with lower freight rates for multiple car shipments. These lower rates normally do not permit any frills, such as stopping a car en route for the purpose of obtaining a sample, which is required on interstate shipments by Section 4 of the 1916 Grain Standards Act.

2) During the past five years, American railroads, and some private companies, have purchased in excess of 10,000 jumbo covered hopper cars annually. At the present rate of acquisition, within the next five years the jumbo covered hopper fleet will be sufficient to transport all of the grain shipped by rail each year.

It is impossible to secure a representative sample from the depths of these giants by manual probe sampling. Inclement weather creates additional problems. Most sampling yards do not provide shelter over these cars for manual probe sampling during rainy weather. Permitting snow or rain to fall in the top hatches as they are opened for probe sampling would bias the sample. The logical solution to this problem is to sample mechanically at origin elevator as the car is being loaded.

3) During the past ten years, our Nation has faced chronic boxcar shortages annually during the grain harvest. This has plagued not only the grain shippers, but all industries that are dependent on the railroads for equipment to transport their merchandise. The major cause of this chronic shortage is poor utilization of rail equipment, much of which could be corrected by modernizing the Grain Standards Act.

Millions of car days are wasted each year on grain cars being held in sampling yards for "official" sampling as required by Section 4 of the 1916 Grain Standards Act.

The authors of the United States Grain Standards Act of 1916 did not envision, nor provide for, these modern approaches in the transportation of grain.

It is difficult to comply with the 1916 Act, and the rules and regulations provided in Section 8 of the Act, at country elevators. The existing regulations require that an employee of a U.S.D.A. licensed agency must be present at all times when a mechanical sampler is used to sample a rail car as it is loaded. It is impracticable and costly to station an employee at every country elevator, some located 200 or 300 miles from the U.S.D.A. licensed laboratory.

The only logical solution is to amend the 1916 Act, such as S. 272 proposes, or to rewrite the Act, as suggested in H.R. 15794, to permit "official" certification of samples submitted by, or on behalf of, the elevator.

If this change is not made in the 1916 Act, it will prevent many country elevators from participating in modern transportation and sampling techniques which will result in the continued waste in the utilization of railroad equipment.

In the interest of brevity, I have only sketchily highlighted the subject matter. The urgency of modernizing the Act is, I believe, acknowledged by all. I will be happy to answer any questions you may have to the best of my ability.

Mr. Chairman, and Members of the Committee, thank you for permitting me to make this statement.

Senator JORDAN. Thank you very much.

Mr. Hendrickson. Come up, Mr. Hendrickson.

He is assistant executive secretary of the National Federation of Grain Cooperatives.

STATEMENT OF BRUCE J. HENDRICKSON, ASSISTANT EXECUTIVE SECRETARY, NATIONAL FEDERATION OF GRAIN COOPERATIVES

Mr. HENDRICKSON. Right.

Senator YOUNG. Mr. Chairman, I read Bruce's statement. It is a very good one and I agree with it completely. [Laughter.]

Senator JORDAN. There you go. See what happens to the chairman. He stays and listens to all of them. But it has one advantage. I know more than the rest of them do, too.

Mr. HENDRICKSON. Actually, Mr. Chairman, I have really just summarized, it is a very brief statement.

Senator JORDAN. You may scan through it or handle it any way you wish, sir.

Mr. HENDRICKSON. All right, it will probably take about 4 minutes to read.

My name is Bruce Hendrickson. I am assistant secretary of the National Federation of Grain Cooperatives.

This federation is composed of 26 regional grain marketing cooperatives located in all of the principal terminal and subterminal grain marketing centers of the United States, as well as being extensive owners and operators of port facilities for grain shipments abroad.

These organizations are owned by approximately 2,600 local grain marketing cooperatives owned and controlled by over 1 million grain producers.

In recent years, total grain marketings by these farmerowned institutions have accounted for about one-third of all off-farm sales of grain, the bulk of which moves in interstate and foreign commerce. And as such, they have been substantial users both of grain inspections performed pursuant to the mandatory feature of the U.S. Grain Standards Act and of transportation services offered by rail, water, and truck carriers.

While the act of 1916 has usefully served to facilitate trade and commerce in grain from designated grain inspection points through mandatory grading in earlier years, innovations by grain carriers and others in recent years, coupled with marked changes in historic grain marketing patterns, have substantially altered the need for mandatory grain inspections of interstate grain shipments.

The ever-increasing use of sealed jumbo covered hopper cars as opposed to the old and very often leaky wooden boxcars with grain doors is but one example.

Others would include giant over-the-road truck rigs capable of carrying 800 bushels of trucklot grain directly from seller to buyer, and massive grain barge tows on our river systems.

The end of these changes is not in sight. At the same time, it has been clear that the mandatory inspection features of the present act have delayed many of our members shipments in those instances where they neither needed nor desired official grain inspections but were required to secure them by virtue of the fact that the particular ship-

ment moved from, to, or through a designated grain inspection point and was therefore required to obtain official grading, with limited exceptions.

For these reasons alone, the members of this federation have actively supported revision of the U.S. Grains Standard Act in testimony presented before a committee in the other body.

Revisions made by that committee on the administration's original proposal—particularly the deletion of authority for the Secretary of Agriculture to require cooperative agreements with private grain inspection agencies—were supported by this Federation.

It is our feeling that the legislation as passed by the House on May 29, 1968, will substantially fulfill the key objective of this important statute—that of facilitating trade and commerce in grains and oilseeds, subject to the requirements of the act, at minimum costs in both dollars and time.

Passage of this legislation will eliminate unneeded inspections and costs incident thereto, when so desired by those engaged in grain marketing and, at the same time, preclude the burdensome and expensive alternative of requiring official inspections on substantial quantities of truck and hopper car movements of grain now, by administrative action, not being inspected, but subject to the present requirements of the act.

While we support H.R. 15794 as passed by the House, we would urge the committee to incorporate the Department's request for authority to establish a revolving fund from the fees collected and proceeds realized from the sale of grain samples, in the interest of efficient and effective administration of the act.

I thank you, Senator Jordan.

Senator JORDAN. Thank you very much. I appreciate that testimony.

I believe you read your statement in its entirety, did you not?

Mr. HENDRICKSON. Yes, I did.

Senator JORDAN. Thank you very much. We appreciate your being with us.

Mr. HENDRICKSON. Thank you.

Senator JORDAN. Mr. Brooks.

STATEMENT OF WILLIAM F. BROOKS, GENERAL COUNSEL, NATIONAL GRAIN TRADE COUNCIL

Mr. Brooks. Mr. Chairman, I have been out of the city and got back last evening and, if I may, I would like to make a brief statement.

Senator JORDAN. You certainly may.

Mr. Brooks. I do not know that I need to submit anything afterward.

The bill, H.R. 15794, I believe it is numbered, is the third product of study by the House Committee on Agriculture this session. We testified on prior bills on two occasions.

We endorse the provisions of this bill, provided that the Agriculture Department's request that there be incorporated this funding operation for the disposition by them of appeals fees, proceeds from sale of samples, cost of overtime work, cost of holiday work, and cost

of travel. If the bill could be amended to include those provisions, we would be quite satisfied with it.

We had so recommended in the House. We so recommended in earlier hearings when the basic act was amended in the fifties to include this funding arrangement for overtime work, and we hope it can be developed here.

Senator JORDAN. That was the two sections that the Department testified against.

Mr. BROOKS. One of those two sections we specifically—one was on this funding. The other we are quite indifferent about.

Senator JORDAN. Fine. Thank you very much, I appreciate your testimony.

Mr. BROOKS. Thank you.

Senator JORDAN. Are there any other witnesses here this morning who wanted to be heard?

Yes, sir.

Mr. GRANGE. Mr. Chairman, could I resume the witness stand just for a minute?

Senator JORDAN. Yes, indeed. Come right up.

Mr. GRANGE. I appreciate this, Mr. Chairman.

Just for the record, Mr. Hendrickson used the phrase that the House had deleted the Department's authority to enter into cooperative agreements with private grain inspection agencies, and the House in a press release used substantially the same phrase.

It is our understanding, Mr. Chairman, that we still have authority to enter into such cooperative agreements on a mutually agreeable basis, and what was deleted was the provision of the statute which would give the Department authority to require such cooperative agreements.

At the present time we have two such cooperative agreements, and in those instances where in the future we could work out mutually agreeable cooperative agreements, we would propose to continue to do so.

Senator JORDAN. Instead of the mandatory requirement.

Mr. GRANGE. But we would not have the authority to be able to force such cooperative agreements in the absence of mutual acceptance on the part of the other, on the part of the inspection agency.

I wanted to have an opportunity to give this explanation, Mr. Chairman, so that there would be no misunderstanding as far as this point is concerned.

Senator JORDAN. Thank you very much, Mr. Grange.

You may get a copy of all the testimony; I believe we have a copy of each statement, do we not, and you have heard all of that. If you will look it over and give us an answer at an early date we would appreciate it.

Mr. GRANGE. Yes, Mr. Chairman, we shall respond as promptly as we can.

Senator JORDAN. Fine. Thank you, sir.

At this point I want to insert in the record a statement from Senator Burdick, who could not be present this morning. I also have a letter from the American Farm Bureau Federation endorsing the bill and one from the Millers' National Federation recommending an amendment. They will be incorporated in the record at this point.

(The documents follow:)

STATEMENT OF HON. QUENTIN BURDICK, A U.S. SENATOR FROM THE STATE OF
NORTH DAKOTA

Mr. Chairman, I thank you for this opportunity to testify in behalf of S. 272 of which I am the co-sponsor together with Senators Metcalf and McGovern. I believe it is safe to say that any regulatory legislation, in order to remain pertinent, must be updated from time to time. I believe that the time for updating has come for the Grain Standards Act which, as you know, is essentially the same as it was when passed a half century ago. That is not to say that many of the provisions are not still good. They are, but I believe we must update the act in order to make it relate to the conditions of today. In the 89th Congress, I supported legislation which declared the railroad Boxcar shortage a national emergency and I also supported other legislation which would help alleviate the critical shortage of rolling stock. I think, Mr. Chairman, that the legislation before your committee today will have the indirect effect of increasing the availability of rolling stock on the railroads and therefore will have a direct effect on the commerce of our nation. And, needless to say, I am in favor of any measure which will increase the income of the farmer. I believe this proposed change in the Grain Standards Act will increase the farmers' income.

In eliminating the requirement for box cars of grain to travel to designated inspection stations, I think we will revolutionize the marketing process of grain. What is being proposed is that a regulated and licensed system be set up whereby mechanically extracted samples of grain can be submitted for grading at a central point and also can be sent to prospective buyers. Box cars containing the grain from which the samples were extracted can then be shipped to any destination determined by the seller and can be graded according to the results of the gradation test which would have taken place many miles away. Of course this will make possible market shopping for the farmer or the grain elevator operator. He can wait until he learns of a market opening which is attractive and then ship the grain to that market without delays of enroute inspection.

We know that the agricultural community is not getting its fair share of the produce dollar. I think that this is one way of insuring that they get a little bigger share of that dollar.

The probability that a sample of grain represents the contents of a car load is much greater when it is extracted by the mechanical sampling device than when it is taken by the present hand probe method. The Secretary of Agriculture will continue to have the authority and responsibility to insure that the sampling is done by approved methods.

In summary, Mr. Chairman, let me itemize the arguments in favor of this legislation. First, the tax payer will gain because there will be significant savings in cost from the present sampling system. Secondly, the buyer will be gaining an advantage in that he will be assured of a better representative sample. Thirdly, the purchase can be consummated on the basis of submitted samples and delivery can be expedited without current lay-over delays for inspection so that both buyer and the seller are protected from price fluctuations which can occur between the purchase time and a prolonged time of delivery. Fourthly, there will be increased equipment utilization and this perhaps will encourage the design and purchase of more and better grain box cars. I understand that presently the railroad can expect to get only eighteen trips a year out of a single piece of grain-hauling equipment. I believe that the enactment of this legislation will increase the car utilization time. In other words, more trips from the levator to the buyer can be made by a single box car if there does not have to be a layover at an inspection station. Lastly, the farmer and the small country elevator operator will gain in that the range of markets available to them will be increased. For example, a farmer in North Dakota can go east with his submitted sample to the prime markets of Minneapolis or Duluth. Or if the market is better in the west he can go to the Pacific coast markets. He does not have to gamble with an entire carload of grain. He can sell on the basis of his submitted sample.

This, I believe Mr. Chairman, will revolutionize the marketing process for grain. In summary, Mr. Chairman, I think all that we are doing if we pass this legislation is adapting the modern methods of sampling and analysis that are used in countless other industries today to the marketing of grain. Certainly modern techniques are needed in this area, just as much as they are needed anywhere else.

WASHINGTON, D.C., June 14, 1968.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ELLENDER: Farm Bureau members have long supported measures to provide a grading system and inspection service which would simplify grain quality identification, facilitate grain marketing and foster integrity throughout the grain business.

Farm Bureau policy is as follows:

Grades of Agricultural Commodities

Agricultural grain standards should reflect the actual value of each commodity in its end-product use.

We support measures to improve grading and quality standards as an aid to merchandising an increasing volume of quality farm products both domestically and abroad.

During the consideration of this matter in the House, we worked with many other interested groups to improve this legislation. H.R. 15794 reflects some of the changes that improve the legislation. Farm Bureau recommends enactment of H.R. 15794.

We would appreciate having this letter made a part of the official hearing record.

Sincerely yours,

JOHN C. LYNN,
Legislative Director,
American Farm Bureau Federation.

WASHINGTON, D.C., June 13, 1968.

HON. B. EVERETT JORDAN,
Chairman, Subcommittee on Agricultural Research and General Legislation,
Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We would like to submit the following comments on the various bills to amend the U.S. Grain Standards Act which your Subcommittee will be considering on June 17.

The Millers' National Federation is the national trade association of the flour milling industry which consumes over a half billion bushels of wheat annually.

We have taken a great interest in the legislation now before you. Our views on the companion bills to S. 2069 and S. 272 were expressed to the House Committee on Agriculture. The bill (H.R. 15794) as passed by the House of Representatives has the endorsement of the Millers' National Federation with only minor reservations.

With regard to Sec. 7(e), dealing with the disposition of fees, and Sec. 10(a) (1), relating to violations of Sec. 13 of the Act, we endorse the position of the Grain and Feed Dealers National Association. That position favors the retention in those sections of the language in H.R. 15794 as it was introduced.

One other point remains. Because of the permissive nature of H.R. 15794, it could conceivably lead to a disuse of official U.S. grades in wheat trading. That this possibility exists is reflected in the Construction and Intent section of the House Committee Report (No. 1344). It is stated there that:

"Concern has been expressed that the second part of the proviso in Section 6(a) could lead to the widespread practice of offering wheat, in particular, for sale on the basis of other than official grade designations. If carried to the extreme, it is argued that such a practice would lead to disorder in wheat marketing.

"The purpose of the U.S. Grain Standards Act is to meet the legitimate needs of producers, the grain trade, and others having an interest in grains. To that end, it is the stated objective of H.R. 15794 to insure 'that grain may be marketed in an orderly manner and that trading in grain may be facilitated.'

"Should this objective not be met, the Department of Agriculture should so inform the Committee."

We respectfully urge that your Subcommittee endorse a similar statement of intent and we urge favorable action on H.R. 15794 with the two exceptions noted.

Sincerely yours,

WALTER C. MIKKELSEN,
Chairman, Grain Grades Committee, Millers' National Federation.

Senator JORDAN. Thank you very much, gentlemen, all of you, for attending; and ladies, too. This will conclude this hearing.

Thank you.

(Whereupon, at 12:45 p.m., the committee adjourned.)

(Additional statements filed for the record are as follows:)

HAINVILLE, LA., June 18, 1968.

Senator EVERETT B. JORDAN,

*Chairman of Subcommittee on Agricultural Research and General Legislation,
Senate Committee on Agriculture and Forestry, Washington, D.C.*

HONORABLE SIR: On behalf of my Company and its Officers, I would like to have included in the record, our comments on bill H.R. 15794 to amend the present U.S. Grain Standards Act. I understand that hearings were conducted on this bill by your Committee yesterday. I would have contacted you sooner, however I have been out of town for the past two weeks and was unaware that hearings had been scheduled. I sincerely hope that this letter reaches you in time for consideration by your Committee.

Our Agency is definitely opposed to Section 7, paragraph (f) of this bill which states "Not more than one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area". This paragraph is in direct conflict with our present situation in Destrehan, Louisiana, and could be with other areas in the United States. If this portion of the bill passed as is, it could literally put one or both of the inspection agencies in our area out of business. To the best of my knowledge all parties involved with the inspection services in Destrehan are more than satisfied and would like for the present arrangement to remain unchanged. Furthermore, this section as written could be interpreted by the U.S. Department of Agriculture to have serious repercussions on Independent Agencies throughout the country.

Therefore, we strongly urge that paragraph (f) of Section 7 be deleted or amended so that it will not apply to any existing inspection agencies.

I would like to further state, that as Secretary/Treasurer of the National Association of Chief Grain Inspectors, I concur wholeheartedly with the statement given by our president, Mr. James V Inglimo, at your hearings yesterday. The list of changes recommended by Mr. Inglimo is a general consensus of opinion of Chief Inspectors throughout the United States, which were adopted unanimously at our recent National Convention in Denver, Colorado. We believe that these recommendations are in the best interest of everyone concerned with our national grain inspection system.

We will greatly appreciate any help you can give in this matter and will be glad to answer any questions you may have.

Very truly yours,

SOUTH LOUISIANA PORT INSPECTION
& WEIGHING BOARD, INC.,
JOHN A. WILLIAMSON, Jr.,
Chief Inspector and Weighmaster.

STATE OF MINNESOTA,
PUBLIC SERVICE COMMISSION,
St. Paul, Minn., June 18, 1968.

Hon. ALLEN J. ELLENDER,
*Chairman, Committee on Agriculture,
Senate Office Building, Washington, D.C.*

DEAR SENATOR ELLENDER: Attached is a copy of a resolution adopted today by the Minnesota Public Service Commission with reference to the above captioned Act.

We thank you for your courtesy in permitting this to be received into the record.

Very truly yours,

LEO J. AMBROSE, *Secretary.*

THE PUBLIC SERVICE COMMISSION OF THE STATE OF MINNESOTA

Paul A. Rasmussen, *Chairman*; Ronald L. Anderson, *Commissioner*;
P. Kenneth Peterson, *Commissioner*

BY THE PUBLIC SERVICE COMMISSION OF THE STATE OF MINNESOTA

A resolution

Whereas the Committee on Agriculture of the Senate of the United States is presently considering H.R. 15794, *An Act To provide for United States standards and a national inspection system for grain, and for other purposes*; and

Whereas the aforementioned Act amends part B of *An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes*, to permit the voluntary inspection and grading of grain in interstate commerce rather than making such inspection and grading mandatory as presently required by statute (39 Stat. 446, at 482) as amended (7 U.S.C. 71-87); and

Whereas it is the considered opinion of this Commission that removing the mandatory requirement for inspection and grading of grain is contrary to the public interest for the following reasons:

1. The peaks and valleys in volume of inspection and grading requests would make it difficult, if not wholly impossible, to maintain adequate staffing of inspection personnel by either a state or private inspection agency and might, therefore, result in the ultimate abandonment of such agencies so that permissive inspection and grading might not be available when required as contemplated by the provisions of the Act.

2. It would appear inconsistent at a time when other food products, such as meat, are being subjected to increasingly closer supervision and inspection to remove such an important food product as grain from all mandatory control.

3. The provisions of the Act permitting employees of the industry to obtain samples which would later be used as a basis for an official grade would seem to negate the value of the grade itself inasmuch as the final grade can be no better than the sample from which it is obtained.

4. The powers extended to the Secretary of Agriculture by this Act are so broad and sweeping that it is impossible to evaluate the many drastic changes which could be implemented by directive without reference to the Congress; and

Whereas this Commission has a definite obligation to the public to protest any action which it deems adverse to the public welfare: Now, therefore, be it

Resolved, by the Minnesota Public Service Commission, in special meeting assembled this 18th day of June, 1968, That this Commission do hereby go on record as opposing the passage of H.R. 15794; and be it further

Resolved, That a copy of this resolution be forwarded to the Committee on Agriculture of the Senate of the United States, respectfully requesting that full consideration be given to the subject matter contained herein.

BY ORDER OF THE COMMISSION,
(S) LEO J. AMEROSE,

Secretary.

Dated at St. Paul, Minn., this 18th day of June, 1968.

[SEAL]

WASHINGTON, D.C., June 21, 1968.

Hon. B. EVERETT JORDAN,
Chairman, Agricultural Research Subcommittee,
Senate Agriculture Committee, Washington, D.C.

DEAR CHAIRMAN JORDAN: On behalf of the Board of Directors of the Transportation Association of America, I should like to present the Association's views on three bills—S. 272, S. 2069, and H.R. 15974—that are now the subject of hearings before your Subcommittee. Provisions in these bills would authorize changes in the present statutory requirements dealing with the inspection of grains moving in interstate commerce. Such changes are fully supported by TAA.

For the record, TAA is a national transport policy organization made up of users, investors, and carriers of all modes who work together to develop national

policies that will help provide the strongest possible transport system under private enterprise principles. Eight permanent advisory Panels composed of 275 representatives of these transport interests study policy proposals and make recommendations to the 115-man TAA Board prior to its taking final action. All these Panels advised the Board that they either supported or did not oppose the following policy proposal, which was formally adopted in May of last year: "TAA should encourage the modification of requirements as to grain sampling, inspection, and grading in order to bring about more efficient use of transportation equipment."

One of the major reasons for support of the above broad policy is to help ease present U.S. inspection requirements of grain shipped by grade in domestic interstate commerce. By making grain inspections permissive or voluntary—rather than mandatory as at present—S. 2069 and H.R. 15974 should help materially in expediting the movement of transportation equipment and in increasing its utilization. This should be advantageous to shippers, carriers, consumers, and the general public.

The proposed authorization in S. 272 of the use of modern mechanical equipment for grain inspections and grading should also help in a similar manner. While we understand that H.R. 15974 likewise authorizes the use of mechanical equipment for this purpose, this is not too clear from a reading of the bill. Therefore, we request that specific language, such as in S. 272, be added to H.R. 15974 or S. 2069, or that the legislative history show that the legislation authorizes the use of such equipment.

We request that this letter be made a part of the official transcript of these hearings and urge favorable consideration of this legislation at the earliest possible date.

Sincerely,

HAROLD F. HAMMOND,
President, Transportation Association of America.



LEGISLATIVE HISTORY
Public Law 90-487
H. R. 15794

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INDEX AND SUMMARY OF H. R. 15794

Jan. 12, 1967	Senator Metcalf introduced and discussed S. 272 which was referred to Senate Agriculture and Forestry Committee. Print of bill as introduced and remarks of author.
July 10, 1967	Senator Ellender introduced S. 2069 which was referred to Senate Agriculture and Forestry Committee. Print of bill as introduced.
Mar. 6, 1968	Rep. Purcell introduced H. R. 15794 which was referred to House Agriculture Committee. Print of bill as introduced.
May 1, 1968	House committee reported H. R. 15794 with an amendment. House Report 1344. Print of bill and report.
May 14, 1968	Rules Committee reported a resolution for consideration of H. R. 15794. H. Res. 1170. H. Rept. 1386. Print of resolution and report.
May 29, 1968	House passed H. R. 15794 as reported.
June 3, 1968	H. R. 15794 was referred to Senate Agriculture and Forestry Committee. Print of bill as referred.
July 2, 1968	Senate subcommittee approved H. R. 15794 for full committee consideration.
July 3, 1968	Senate committee voted to report H. R. 15794.
July 9, 1968	Senate committee reported H. R. 15794 with amendments. Senate Report 1372. Print of bill and report.
July 11, 1968	Senate passed H. R. 15794 as reported.
July 22, 1968	House conferees were appointed on H. R. 15794.
July 23, 1968	Senate conferees were appointed on H. R. 15794.
July 26, 1968	Conferees agreed to file a report on H. R. 15794.

July 30, 1968 Senate received and agreed to conference
report on H. R. 15794.

July 31, 1968 House received conference report. H. Rept.
1827. Print of report.

Aug. 1, 1968 House agreed to conference report.

Aug. 15, 1968 Approved: Public Law 90-487

Hearing: Senate Agriculture and Forestry
Committee on S. 272, A. 2069, and H. R. 15794.

Hearings, House. Agriculture Committee
on H.R. 2121 and H.R. 11162 - 90th. Cong. 1st.
Sept. 12, 13, and 14, 1967. Parts 1 & 2
(Filed separately)

DIGEST OF PUBLIC LAW 90-487

UNITED STATES GRAIN STANDARDS ACT. Revises and modernizes the Grain Standards Act of 1916. Continues voluntary grading on grain shipped within the United States. Continues mandatory inspection of all grain shipped to a point outside the United States. Permits use of modern mechanical and electronic grain-sampling equipment. Provides for licenses of grain inspectors for 3-year renewable periods. Provides additional enforcement provisions authorizing the Department to refuse or renew licenses, to have access to certain records, and to refuse to provide grain inspection under certain circumstances. Permits inspection by submitted samples in commerce within the United States and Canada. Eliminates compulsory inspection on domestic shipments from or to designated grain markets. Authorizes the Department to use all appeal fees which are collected and retained and all maney obtained from the sale of samples to partially offset its cost under the Act.

S. 272

IN THE SENATE OF THE UNITED STATES

JANUARY 12, 1967

Mr. METCALF (for himself, Mr. BURDICK, and Mr. McGOVERN) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the United States Grain Standards Act, as amended, to permit the inspection of certain grain thereunder upon the basis of submitted samples.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 4 of the United States Grain Standards Act,
4 as amended (39 Stat. 483, 7 U.S.C. 76) is amended by
5 adding at the end thereof the following: "Notwithstanding
6 any other provisions of this Act, inspection and grading
7 under this Act of grain shipped or to be shipped in interstate
8 commerce may be based upon a sample or samples obtained
9 (by probe or other mechanical device), and submitted, by
10 or on behalf of the shipper of the grain."

A BILL

To amend the United States Grain Standards Act, as amended, to permit the inspection of certain grain thereunder upon the basis of submitted samples.

By Mr. METCALF, Mr. BURDICK, and
Mr. MCGOVERN

JANUARY 12, 1967

Read twice and referred to the Committee on
Agriculture and Forestry

waived and in projects in which the policy has been adhered to. It is further requested that the report describe the relationships which the various land classifications and types of crops irrigated bear to the economic size of individual or family farm units under present and prospective future irrigation farming practices.

2. *Be it further resolved*, That the Secretary is requested to include in said report detailed statements of the advantages and disadvantages of the acreage limitation policy as presently in effect, and his recommendations for desirable change or modification, if any.

3. *Be it further resolved*, That the Secretary is requested to submit the study, report, and recommendations requested herein to the committee by January 31, 1964.

On June 30, 1964, in response to the resolution, the Secretary of Interior transmitted to the committee his acreage limitation policy study. This comprehensive study became a committee print of the Senate Interior and Insular Affairs Committee at the direction of its very able chairman, Senator HENRY M. JACKSON. I would urge anyone interested in the subject to secure a copy of the print for complete and comprehensive background material on this controversial subject.

The transmittal contained two recommendations from the Secretary as follows:

We recommend at this time that Congress consider for early enactment legislative measures (1) to authorize general use of the Class I equivalency concept in determining nonexcess and excess acreages on all reclamation projects; and (2) the establishment of an excess land purchase and sale fund. We are drafting legislation to accomplish these purposes, which legislation will be transmitted to the Bureau of the Budget for executive review in the near future.

Two and one-half years have passed and as of now no draft legislation to accomplish the recommendations has been received.

Because of my interest and personal knowledge of the inequities that exist through the strict application of the present 160-acre limitations in areas of short growing seasons, low value forage crops and poorer quality soils I am offering a bill that would accomplish at least one phase of the double-barreled proposal of the Secretary in his original transmittal.

I trust that the introduction of this bill will force some response from the executive agencies to the many requests for modification of the 160-acre limitation requirement for landholders within reclamation projects.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 266) to provide for consideration of the productive potential of irrigable project lands in determining excess and nonexcess acreages on Federal reclamation projects, introduced by Mr. BIBLE, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

AMENDMENT OF POSTAL REGULATIONS—MAILING PRIVILEGES IN COMBAT ZONES

Mr. PELL. Mr. President, in the closing days of the 89th Congress provision

was made to expedite the transmittal of parcels to servicemen stationed overseas in actual combat zones—that is, Vietnam. Packages could be sent at the fourth-class parcel post rate to the service post office and then be forwarded by air, space available, to the final destination. This provision also applies to parcels sent from an overseas area. I supported this measure, for it was a step in the right direction. However, I believe that we should now take the next logical step needed to expedite the handling of packages to and from our service personnel.

While it is helpful for parcels to be flown from the service post office to their final destination, the swiftness of transmittal still depends upon the expeditious handling of the mail from its original point of origin to the service post office. I have become aware of the fact that, in certain instances, a parcel mailed from the eastern seaboard can take a month to reach the embarkation point on the west coast. One can readily envision that it could therefore take anywhere from 4 to 6 weeks for a package to make the complete transit.

Imagine the morale factor involved; a young soldier in Vietnam receives a letter in which his family tells him about the package they are sending. The letter took a week to reach him, and he waits a month longer to receive the package. Many of us here can well remember the joy which receipt of mail and packages meant while serving overseas, and we can also recall the frustration felt when an expected parcel did not appear.

I believe that our Nation can well afford the added expense which would be incurred if air transmittal on a space available bases were accorded to this type of mail while in transit within the United States and its territories. I now introduce, for appropriate referral, legislation to amend the pertinent postal statute to provide this mailing privilege to those serving in combat zones.

In closing, Mr. President, I urge swift action on this matter, for it is inconceivable to me that those who are on the frontlines should be penalized by having to suffer this needless and harmful time lag in mail delivery.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 267) to amend title 39, United States Code, with respect to the transportation between points of origin or destination and points of embarkation and debarkation of mail to or from Armed Forces post offices, introduced by Mr. PELL, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

FRESH WATER FROM THE SEA FOR SOUTHERN CALIFORNIA

Mr. KUCHEL. Mr. President, I am pleased to introduce, along with the Senator from New Mexico [Mr. ANDERSON], the Senator from Washington [Mr. JACKSON], my colleague from California [Mr. MURPHY], the Senator from Idaho [Mr. JORDAN], and the Senator from Arizona [Mr. FANNIN], a bill to authorize the Department of the Interior to participate in the construction and opera-

tion of the world's largest desalination plant and nuclear power generating facility to be built off the coast of southern California.

An identical bill, S. 3823, passed the Senate in the closing days of the 89th Congress. However, no action was taken on the bill in the House of Representatives.

This proposed legislation would authorize the Department of the Interior to contribute a total of \$57.2 million toward the design, construction and operation of this massive plant. Of that amount, \$45.7 million would be applied to capital costs, the remainder to the operation and maintenance of the plant.

The able chairman of the Joint Committee on Atomic Energy [Mr. HOLIFIELD] sponsored a companion measure, which passed the last Congress, authorizing the Atomic Energy Commission to contribute \$15 million toward the construction of the facility. The combined amounts to be contributed by these two Federal agencies would be less than 15 percent of the total cost of the project. The balance of the cost of the \$444.3 million project will be borne by the Metropolitan Water District of Southern California, the San Diego Gas & Electric Co., the Southern California Edison Co., and the Los Angeles Department of Water and Power.

The combination nuclear electric power and sea water conversion plant is to be owned and operated by these local, private, and public agencies. The Federal Government, in turn, will gain valuable technological experience in the field of sea water conversion. This unique partnership of private and governmental agencies will make it unnecessary for the Department of the Interior to seek funds for all-Federal construction of such a massive prototype plant.

In a study report submitted in December 1965, the Bechtel Corp., of San Francisco, stated that the project was technically feasible and could produce fresh water at a cost of 21.9 cents per 1,000 gallons at plant site, and 27 cents per 1,000 gallons delivered to the metropolitan water district system. The present minimum cost of fresh water from existing desalination plants is about \$1 per 1,000 gallons.

There is no substitute for having a large prototype plant operating if we hope to measure the cost savings to be achieved by large-scale operations. Although the plant is not expected to produce any dramatic technological breakthroughs, a demonstration that water can be taken from the sea and converted to fresh water at a low cost will have a great impact on future water resource development.

Upon completion, the plant will provide southern California with 150 million gallons of fresh water each day. This is over 100 times the 1.4 million gallons per day capacity of the former San Diego-Point Loma experimental plant which was moved to the Guantanamo Naval Base in Cuba late in 1964. The proposed plant would have more than twice the combined capacity of all the salt water conversion plants in existence today.

In addition, the nuclear reactors and turbine generators will generate approximately 1,800 megawatts of electricity—enough to supply the domestic needs of 2 million people. Even mighty Hoover Dam produces less power than will the proposed plant. The plant will be built on a 43-acre manmade island about one-half mile off the Bolsa Chica State Beach in Orange County. A two-lane causeway will carry water and power transmission lines to the mainland. The water will then be pumped 25 miles to the Diemer filtration plant where it will be blended with other water in the existing distribution system.

Those of us who have studied California's water resources for many years do not expect desalination to solve all of our State's water problems. It will, however, help to ease our critical water shortages.

Reliable estimates foresee a doubling of California's population within a mere 25 years. This, coupled with the fact that per capita water consumption is ever increasing, makes it imperative that we test every promising approach to assure a reliable water supply for future generations.

Mr. President, I believe that this would be a great step forward. It is approved by the appropriate agencies downtown.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 270) to provide for the participation of the Department of the Interior in the construction and operation of a large prototype desalting plant, and for other purposes, introduced by Mr. KUCHEL (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Interior Affairs.

LIBERALIZED LIFE INSURANCE BILL

Mr. BREWSTER. Mr. President, I am today introducing, for appropriate reference, a bill to liberalize the Federal employee life insurance program which contains the same provisions as the Senate- and House-approved measure of the 89th Congress.

Under my bill, the amount of life insurance available to each Government employee would be raised to equal approximately one and one-third of his annual basic pay. This would thereby raise the ceiling on the maximum limit of insurance carried from \$20,000 to \$40,000.

In addition, an extra \$2,000 would be added to the face value of the employee's policy. The particular value in this provision, aside from increasing the amount of insurance carried during the working years, is that the \$2,000 would not be affected by the reduction formula which goes into effect upon retirement and reduces the face value of the policy to a percentage of that previously carried. Mr. President, I am sure you and my colleagues can appreciate the reassuring effect this arrangement would have on the retiree and his family in planning for their later years.

My bill provides that 60 percent of the cost of insurance would be borne by the employee, while the Federal Government

would pay for the remaining 40 percent of the premium. This is a decrease of about 7 percent for the employee and an increase of 7 percent for the Government.

Mr. President, as I have here described it, my bill providing a one-third increase in insurance coverage, liberalized retirement coverage and increased Government contribution to the program, is vitally needed legislation. We must continue in our efforts as the Nation's leading employer, and whenever possible, provide our employees with progressive and forward-looking programs of benefit to them and their families. I do feel great benefit can be derived from this legislation and that the cost should not be prohibitive during this coming legislative session.

Some young employees are able to afford no life insurance protection other than that provided by the Federal Government. They are raising families and would face certain financial crises if anything should happen to the breadwinner and the insurance premium paid was based only on his beginning salary under the present program's rate. The former Life Insurance Act was enacted in 1954 and is the one fringe benefit program of the Government which has not received significant change or improvement since that date.

I question the adequacy of our existing life insurance program for the worker and the retiree alike, and I strongly urge this 90th Congress to take prompt and positive action on this legislation of such vital concern to the dedicated public servants in our Federal system.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 271) to amend title 5, United States Code, to provide additional group life insurance and accidental death and dismemberment insurance for Federal employees, and for other purposes, introduced by Mr. BREWSTER, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

AMENDMENT OF U.S. GRAIN STANDARDS ACT

Mr. METCALF. Mr. President, on behalf of the junior Senator from North Dakota [Mr. BURDICK], the junior Senator from South Dakota [Mr. MCGOVERN], and myself, I introduce for appropriate reference a bill to amend the U.S. Grain Standards Act to permit the inspection of certain grain thereunder upon the basis of submitted samples.

This bill is identical to S. 3585, which the distinguished junior Senator from Nebraska [Mr. CURTIS] and I introduced last year.

A principal effect of the enactment of the proposed legislation would be the addition of thousands of boxcars to available rolling stock, in that automatic grain sampling, replacing the old-fashioned, time-consuming probe test, would reduce costly delays of cars in terminals.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD two articles concerning the value of automatic sampling. One article, en-

titled "A Proposal to Alleviate the Boxcar Shortage," appeared in the fall 1966 issue of Inside Story, published by International-Stanley Corp., of Omaha. The other, entitled "USDA Approves Sampling of Grains With Machines," appeared in the November-December 1966 issue of Northwest, published by the Northern Pacific Railway.

Mr. President, I ask unanimous consent that the bill lie on the desk for a period of 1 week to permit other Senators who wish to cosponsor to do so.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, will lie at the table as requested; and, without objection, the articles referred to will be printed in the RECORD.

The bill (S. 272) to amend the U.S. Grain Standards Act, as amended, to permit the inspection of certain grain thereunder upon the basis of submitted samples, introduced by Mr. METCALF (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

The articles presented by Mr. METCALF are as follows:

A PROPOSAL TO ALLEVIATE THE BOXCAR SHORTAGE—BILLS, BOXCARS, AND THE GRAIN TRADE—NEW LEGISLATION AIMED AT MODERNIZING GRAIN MERCHANDISING

Times do change, as the old saying goes, and change brings its inevitable Pandora's Box of new problems and new needs to all people and all things.

Such is certainly the case in the merchandising of grain, a vital piece of the nation's commerce largely governed by a 50-year-old Act that, though still sound in many of its essential provisions, has somehow avoided the architects of modern method.

Unfortunately, maintenance of the status quo in this case has served only to clog the arteries of commerce, since the merchandising and transportation of grain have undergone considerable change in the past half-century.

The current United States Grain Standards Act was passed in 1916 long before the advent of high-capacity freight cars, trainload rates, automated operations, and sampling techniques that can now "apply modern technology to the handling of grain," in the words of one U.S. Senator.

But change, it seems, thanks to the understanding support and prudent action of Congressmen, government officials, and leaders in the grain trade and transportation industry, has at last caught up with the half-century-old legislation.

In June of this year two bills designed to amend and modernize the Act were quietly ushered into the legislative stream.

One, identified as S. 3585, was introduced in the Senate of the 89th Congress by Senators Lee Metcalf (D., Mont.) and Carl T. Curtis (R., Nebr.). Designed to amend the United States Grain Standards Act, it would permit "the inspection of certain grain thereunder upon the basis of submitted samples."

This provision, as intended, aims directly at one serious discrepancy in the current Act. As it now stands there is no proviso that would permit a shipper to forward a small sample of grain for official inspection. Rather, he must suffer the delay of having an entire car sidetracked for this purpose so that "manual" probed samples can be obtained. Setting cars aside for sampling consumes an estimated 10 million car days annually and puts a sizeable squeeze on the boxcar fleet. The development of reliable and efficient grain sampling devices in the

past few years makes the practice even more questionable.

S. 3585, the Metcalf-Curtis Bill, provides for using submitted samples for official inspection, and opens the way for greater use of mechanical samplers. As Senator Metcalf stated on the floor of the Senate in introducing the bill, "We simply desire to make possible the use of mechanical grain sampling devices at country elevators in carrying out grain inspection procedures required by law." He further noted that "Present inspection methods cause a loss of time and aggravate the boxcar shortage."

The brevity of the Metcalf-Curtis Bill is in keeping with this modest but significant objective. Its solitary sentence spaces out to 10 lines of large type and barely fills a single page of Congressional parchment. It reads:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the United States Grain Standards Act, as amended (39 Stat. 483, 7 U.S.C. 76) is amended by adding at the end thereof the following: 'Notwithstanding any other provisions of this Act, inspection and grading under this Act of grain shipped or to be shipped in interstate commerce may be based upon a sample or samples obtained (by probe or other mechanical device), and submitted, by or on behalf of the shipper of the grain.'"

Refreshingly brief in appearance, the Metcalf-Curtis Bill packs a lot of favorable potential. The nationwide benefits that could accrue if Congress passes the measure have helped to muster considerable support for the bill.

These benefits include dramatic alleviation of the boxcar shortage now plaguing the grain trade; more representative samples of grain; greater flexibility and efficiency in freight car utilization; decided economic advantages to shippers, carriers, and taxpayers in less costly procedures, fewer delays, and more effective operations.

International-Stanley Corporation, with an awareness of sampling problems experienced during two decades of service to both railroads and the grain trade, enthusiastically lists itself among the staunch supporters of legislation such as that embodied in the Metcalf-Curtis Bill.

A second proposed bill, sponsored by the United States Department of Agriculture, also recognizes the need for changes in the Grain Standards Act to keep pace with the changing requirements of the grain trade. This bill was transmitted to Speaker of the House, John W. McCormack, on June 27, 1966, and has now been identified as H.R. 16918. It provides for a uniform National Inspection System for grain and abolishes the so-called mandatory inspection provision for interstate shipments now required by Section 4 of the existing Act.

In an effort to encourage appropriate legislative action, two of International-Stanley's key executives, William Bruning and Joe Garrett, have made frequent trips to the nation's Capitol to discuss the situation with Congressmen and government officials. At the United States Department of Agriculture, Edward J. Overby, director of the Grain Division, Consumer Marketing Service, told Bruning and Garrett, "better sampling is the first step in reducing delays." This involves, he explained, legislation to permit official lot inspection on submitted samples. If this were done, development of a workable mechanical sampler and suitable trade rules to encourage buying and selling on such samples should follow to improve the movement of grain in commerce.

Currently, International-Stanley Corporation in conjunction with the Milwaukee Road, is engaged in a research program throughout the northern Great Plains area to determine the feasibility of using mechanical spout devices to sample grain at

country elevators. The program is also designed to evaluate the advantages of providing a nationwide grain sampling service to expedite the movement of grain and maximize the use of railroad grain hauling equipment.

Support for remedial legislative action, Bruning and Garrett quickly discovered, is strong and enthusiastic. Modernization of grain sampling procedures, they found, has the blessing of virtually all government, agriculture, and transportation groups concerned about adequate, timely and efficient movement of grain.

Stimulating endorsement is the knowledge that initiation of mechanical grain sampling procedures and services could add thousands of boxcars a year to the nation's hard-pressed freight car fleet.

Senator George McGovern (D., So. Dak.) said that amendment of the Act is obviously in the best interests of the producer and local elevators. He feels that mechanized sampling techniques will be even more important next year and help support our country's Food for Peace Program as well as the additional crops that should result from expansion of grain acreage under cultivation.

Senator Curtis, co-sponsor of S. 3585, expressed a decided interest in International-Stanley's "pilot" program, and is hopeful that the results of these tests, plus favorable analysis of the bill's impact on established marketing patterns, will assure quick passage.

"Legislation already passed by the Congress this year will help relieve the boxcar shortage," said Senator Curtis, "but the shortage will be acute for some time to come. A service that speeds the handling of boxcars so that more shippers can be served is in the public interest. It is my hope that this development can be utilized in such a way that it will be a benefit to all segments of our economy but particularly to the grain industry, which has long been hampered by a shortage of equipment to move its products to market."

John W. Bush, chairman of the Interstate Commerce Commission, another enthusiastic supporter of legislative action, favors any prudent tool or method that would help reduce the pinch in grain transportation and improve freight car utilization. "If it were possible," he stated, "to reduce the number of inspections by only 25 percent, it would be the equivalent of adding 7,500 boxcars to the railroads' car fleet."

As of this writing, the Metcalf-Curtis Bill appeared closest to passage this year. Passage of either bill, however, and acceptance of the new legislation by all parties involved in the marketing and transportation of grain, can only signal a new era of more boxcar availability, better sampling, less delay, and lower costs.

And that is a change for the better that everyone wants.

USDA APPROVES SAMPLING OF GRAINS WITH MACHINES

Early last summer an announcement was made to the effect that, henceforth, the U.S. Department of Agriculture would approve the taking of grain samples by mechanical methods.

Among those within and close to the world of grain shipping and marketing this word was received, for the most part, with something akin to satisfaction, if not unbounded enthusiasm. To a few, it was something to be accepted with resignation and good grace.

On the other hand, the fact meant little, if anything, to the man on the street, even if he did find it "written up" in his local newspaper. And yet, grain sampling has much to do with the prices we pay for and the nutritional quality of many items in our daily diets.

To understand the significance of what has

to be regarded as a revolutionary step forward in grain sampling, it would be helpful to know something about sampling and inspecting, why it is done and what the approved methods of sampling were prior to June 10, 1966. The State of Minnesota, which operates the largest grain inspection agency in the world, according to its chief of grain inspectors, N. W. Peterson, provides a good starting point.

Minnesota's State Grain Inspection department was established by law in 1885 and charged with sampling, inspecting and grading any grain consigned to a public elevator in the state, as well as grain that is resold and moved from one elevator to another within the state's boundaries.

At that time, and for several years afterward, cars of grain moving to terminal elevators at the Twin Cities and Duluth were held at freight yards near the elevators until the required samples were taken. However, this soon led to serious congestion in the yards and consequent delay in the movement both of grain and other kinds of freight. This, in turn, greatly affected car supply on all the railroads involved. Thus, when requested by the Northern Pacific, Great Northern and Soo Line railways in 1906, the State agreed to establish "outside" sampling points at Staples, Wilmar, St. Cloud, Glenwood, Sandstone, Thief River Falls and Cass Lake.

At these stations, small armies of official samplers file among long lines of cars, collecting samples of grain to send to the inspection and weighing departments in Minneapolis and Duluth. In every case, the procedures followed are the same.

A sampler crew foreman, carrying a list of car numbers, moves down designated sampling tracks, breaking seals and opening car doors. He looks for leaks, notes any that may exist, and marks the cars' destinations on one of their grain doors.

When a sampler arrives at the car with his ladder and five-foot brass sampling probe, he selects a green sack and a white one (green for the State inspection office at Minneapolis or Duluth, white for the Grain Exchange at either city). Then he climbs into the car and collects grain at several standardized locations to obtain a uniform sample from the entire carload. He empties the contents of each probe onto a canvas sheet, examining each probe carefully for obvious defects. The whole sample is then poured into a sack. In the green sack he also places an official state triplicate inspection form on which he has noted the station, car number, car owner, the date, and his own initials.

After the samples have been collected, the cars are resealed with State seals, and the numbers of these are recorded, along with the numbers of the railroad seals which were broken when the cars were opened. The samples, together with their seal records, are packed in specially constructed boxes, which also are sealed with State seals. These boxes are then placed on the first passenger train leaving the sampling point for the terminal to which the grain cars are consigned.

Upon arrival of the train at the terminal, the sample boxes are picked up by an inspection department employee and delivered directly to the office where inspection and grading are performed. If a particular sample arrives in time for the 9 a.m. inspection, it is labeled, say, Dec. 1 A.M. and must be ordered by 4 p.m. that day. If not ordered, the car begins to accrue demurrage charges (unless it is a car that is being held for sale). Samples received after 9 a.m. and up until the grain market closes, are marked as P.M. samples and must be ordered by 4 p.m. the next day.

At the inspection office the grain samples are grade by federally-licensed inspectors. These men, experts in their field, run the samples through dividers known as Boerner

Samplers. Primarily, this is to reduce the sample to a workable size while making sure that it is representative of the carload.

In this operation, the grain is poured into a funnel-shaped hopper at the top of the machine, then released to slide down the sides of an inverted cone. Around the base of this cone are 36 pockets, or openings. As the grain falls, then, it is divided into 36 separate streams which, a bit farther on, merge into two streams. The grain from pockets 1, 3, 5, etc., run into the first of these, and the grain from the even-numbered pockets runs into the second. Each of these half-samples is then identical to the other.

If the grain is wheat, it is then run through a machine mill or dockage tester to clean out the foreign material by mechanical screening. From here the sample goes to an inspector who determines the test weight per bushel by weighing $1\frac{1}{8}$ quarts of the grain. Later, the moisture content is measured with an electronic meter, and after all these facts and the percentages of foreign material and other classes of grain mixed in the sample are determined, the wheat is graded from No. 1 through 5 or "sample grade."

No. 1 wheat, for example, weighs not less than 60 pounds per bushel (except Hard Red Spring wheat: 58 pounds), has no more than 0.1 per cent heat damaged kernels, 2.0 per cent damaged kernels (other than by heat), 0.5 per cent foreign material, and a maximum of 3.0 per cent shrunken and broken kernels. Overall, its defects may not exceed 3.0 per cent. At the same time, it may not contain more than 1.0 per cent grain of contrasting classes nor more than 3.0 per cent other classes of wheat.

The grade level goes down as the percentages of these various defects increases and as the weight decreases, until sample grade is reached. The latter is said to be "of distinctly low quality," and often contains what is termed a "commercially objectionable foreign odor."

Additional tests on wheat include a determination of its moisture content as well as the amount of protein it contains. Wheat that is more than 13.5 per cent moisture is labeled "tuff," in inspection parlance, a faster way of writing "tough."

To establish a grade for each car of grain is really what sampling and inspection are all about. The grade slip which was inserted in the green bag by the sampler is completed by the inspectors, and a copy of it is sent to the buyer or prospective buyers at the Grain Exchange, along with the protein test results.

A commission man at the Exchange, to whom the white bag was sent, runs identical tests to verify the State inspection. With all of this information on hand, as well as an actual sample of the grain, a buyer knows exactly what he is buying and what price he should pay. Obviously, he expects to pay more for higher quality grain. So what's with mechanical sampling?

One such sampler is now in daily use at the Marquette Elevator in Minneapolis, an operation of the Louis Dreyfus Corp. It is a diverter type unit in which a narrow scoop is passed through the grain stream automatically every 19 to 50 seconds to siphon off part of the product. The interval is determined by the capacity of the car being loaded, then set on an electric timer. In this manner, a standard 80-pound sample is taken from each car and split by the machine into three portions. One is for the State, one for the customer, and the third for Marquette itself.

There are a number of such units being marketed, but the operating principle is pretty much the same in every case. They may be purchased outright, or may be leased from a firm such as Commodity Verification Services, Inc., which charges a flat monthly rate for the installation plus a charge for each car sampled.

Most of the grain trade is in agreement on one point: mechanical sampling more accurately represents the contents of a car of grain than that performed with a probe or pelican, provided that all the grain loaded into the car got there through the spout in which the mechanical sampler is operated. In other words, it eliminates human error entirely and dishonesty to a degree. (As one elevator operator put it, "If a man really wants to make an attempt at palming off some inferior grain, he can still bypass the sampler and throw his junk into the bottom of the car with a shovel or something.")

A researcher with the Department of Agriculture made tests in Minneapolis to compare the results of sampling done mechanically, with the probe and a hand pelican (a scoop resembling a pelican's bill which is passed through the grain stream periodically to obtain a sample). His report shows that the probe was inaccurate, the pelican was erratic, but three different brands of mechanical samplers brought excellent results.

Representative samples grow more difficult to obtain, too, with the growing use of the large grain hoppers holding 12 to 14 feet of grain, which places much of the grain beyond the reach of most probes. Furthermore, use of the probe in such cars is somewhat restricted by uniformly narrow hatch openings on the top of the hoppers. In this situation, nothing can compare with a controlled mechanical sample.

By and large, the railroads support use of the machine method as a means of achieving faster turn around of cars, especially in these days of costlier equipment, i.e., the big hopper cars. As noted above, the official probe sample currently in use requires that grain cars be halted at "hold points." This always results in delays, but especially so during peak grain shipping periods. Samples mechanically obtained at loading points could eliminate this problem. A spokesman for one Midwestern railroad has suggested that his company might even be able to offer a rate reduction of \$8 per car of grain on point-to-point shipments where the mechanical sampler is used, simply because of the gains rising out of better utilization of cars.

Additional advantages of mechanical sampling include faster delivery of samples, quicker payoffs for the elevator operator, significant savings in sampling expenses, and earlier delivery of grain to the buyer.

The State of Minnesota also has approved the use of the sampler at Marquette Elevator, with the proviso that an official sampler is on hand to supervise the operation and remove the samples from the security box where a rotating battery of cylinders receives the samples. If a State employee is not present, the grain is inspected and graded as with "official" samples, but is labeled as a "submitted" sample and the grade applies only to the sample, not to the grain lot from which the sample may have been taken.

A number of elevator operators in the Midwest are conducting trials with mechanical samplers, but the system hasn't made probes and pelicans obsolete yet. In fact, machine samples are still in the minority. However, many in the grain trade feel that the economy, accuracy and speed which mechanical samplers afford will bring them to the cash market in increasing numbers and that, ultimately, all sampling will be performed with them.

ISSUANCE BY SECRETARY OF AGRICULTURE OF A 25-CENT-PER-BUSHEL EXPORT MARKETING CERTIFICATE ON WHEAT FOR THE 1967, 1968, AND 1969 WHEAT CROPS

Mr. BURDICK. Mr. President, I introduce, on behalf of myself and the

Senator from Montana [Mr. METCALF], a bill to provide for the issuance by the Secretary of Agriculture of a 25-cent-per-bushel export marketing certificate on wheat for the 1967, 1968, and 1969 crops of wheat.

I ask unanimous consent that the text of the bill be included in the RECORD and that the bill lie at the desk up to January 20, for additional cosponsorship by other Senators.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, will be printed and will lie at the desk as requested.

The bill (S. 273) to provide for the issuance by the Secretary of Agriculture of a 25-cent-per-bushel export marketing certificate on wheat for the 1967, 1968, and 1969 crops of wheat introduced by Mr. BURDICK (for himself and Mr. YARBOROUGH), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 379c(a) of the Agricultural Act of 1938, as amended, is amended by striking out the fifth and sixth sentences and inserting in lieu thereof the following: "The Secretary shall also provide for the issuance of export marketing certificates to eligible producers for the portion of the wheat marketing allocation used for commercial and food-for-freedom exports."

SEC. 2. Section 379c(c) of such Act is amended by adding at the end thereof a new sentence as follows: "The face value per bushel of export marketing certificates issued to eligible producers shall be 25 cents per bushel."

SEC. 3. Section 107 of the Agricultural Act of 1949, as amended by section 506 of the Food and Agriculture Act of 1965, is amended by adding at the end of paragraph (2) thereof a new sentence as follows: "The 25-cent-per-bushel export marketing certificate provided for under section 379c(c) of the Agricultural Adjustment Act of 1938, as amended, shall be made available only to cooperators."

SEC. 4. The amendments made by this Act shall be effective with respect to the 1967, 1968, and 1969 crops of wheat.

AMENDMENT TO POSTAL FRAUD STATUTE

Mr. WILLIAMS of New Jersey. Mr. President, I introduce, on behalf of myself and the Senator from Hawaii [Mr. FONG], for appropriate reference, an amendment to the administrative section of the postal frauds statute. This amendment would eliminate the requirement of proving intent by deleting the word "fraudulent" from the statute and substituting the word "misleading."

This bill is identical with S. 1364, which I introduced on March 4, 1965. And it is identical with H.R. 16706, which was passed by the House on August 15, 1966.

Passage of this bill is essential if we are to remove one of the burdensome obstacles now facing the Post Office Department in its efforts to stop the fraudulent and deceptive use of the U.S. mails.

The need for such a bill became very clear to me during inquiries made in 1963 by the Senate Special Committee on

90TH CONGRESS
1ST SESSION

S. 2069

IN THE SENATE OF THE UNITED STATES

JULY 10, 1967

Mr. ELLENDER (by request) introduced the following bill; which was read twice
and referred to the Committee on Agriculture and Forestry

A BILL

To provide for United States standards and a national inspection
system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting of
4 part B of "An Act making appropriations for the Depart-
5 ment of Agriculture for the fiscal year ending June thirtieth,
6 nineteen hundred and seventeen, and for other purposes",
7 approved August 11, 1916 (39 Stat. 446, at 482), as
8 amended (7 U.S.C. 71-87) is hereby amended, effective
9 one hundred and eighty days after enactment hereof, to read
10 as follows:

1 SHORT TITLE

2 SECTION 1. This Act may be cited as the United States
3 Grain Standards Act.

4 DECLARATION OF POLICY

5 SEC. 2. Grain is an essential source of the world's total
6 supply of human food and animal feed and is merchandised in
7 interstate and foreign commerce. It is declared to be the
8 policy of the Congress, for the promotion and protection of
9 such commerce and the general welfare of the people of the
10 United States, to provide for the establishment of official
11 United States standards for grain, to promote the uniform
12 application thereof by official inspection personnel, and to
13 provide for a national inspection system for grain; to require,
14 as provided in this Act, that certain grain shipped from the
15 United States be officially inspected for grade; and to prohibit
16 certain deceptive or misleading acts or practices with respect
17 to grain; with the objectives that grain may be marketed in
18 an orderly manner and otherwise to the best advantage, that
19 trading in grain may be facilitated, and that processors and
20 consumers may be able to obtain grain having the grade or
21 other characteristics which they desire.

22 DEFINITIONS

23 SEC. 3. (a) When used in this Act, except where the
24 context requires otherwise—

1 (1) the term “Secretary” means the Secretary of
2 Agriculture of the United States;

3 (2) the term “Department of Agriculture” means
4 the United States Department of Agriculture;

5 (3) the term “person” means any individual, part-
6 nership, corporation, association, or other business entity;

7 (4) the term “United States” means the States
8 including Puerto Rico) and the territories and posses-
9 sions of the United States (including the District of
10 Columbia) ;

11 (5) the term “interstate or foreign commerce”
12 means commerce from any State (including Puerto
13 Rico) or any territory or possession of the United States
14 (including the District of Columbia) to or through any
15 other State, territory, or possession of the United States
16 or to or through any foreign country;

17 (6) the term “grain” means the threshed seeds of
18 agricultural plants designated by the Secretary upon his
19 determination that such action would tend to accomplish,
20 with respect to such seeds, one or more of the objectives
21 stated in section 2 of this Act;

22 (7) the term “export grain” means grain for ship-
23 ment from the United States to any place outside thereof;

24 (8) the term “official inspection” means the deter-

1 mination and the certification, by official inspection per-
2 sonnel, of the kind, class, quality, condition, or quantity
3 of, or other facts relating to, grain, under standards pro-
4 vided for in this Act or other criteria approved by the
5 Secretary under this Act (the term “officially inspected”
6 shall be construed accordingly) ;

7 (9) the term “official inspection personnel” means
8 employees of the Department of Agriculture who are
9 authorized, and employees of State or other govern-
10 mental agencies or commercial agencies, or other per-
11 sons, who are licensed, to perform all or specified func-
12 tions involved in official inspection under this Act;

13 (10) the term “official inspection mark” means
14 any symbol prescribed by regulations of the Secretary
15 to show the official determination of the kind, class, qual-
16 ity, condition, or quantity of, or other facts relating to,
17 grain, under standards provided for in this Act or other
18 criteria approved by the Secretary under this Act;

19 (11) the term “official grade designation” means
20 a numerical or sample grade designation, specified in
21 the standards provided for in this Act;

22 (12) the term “cooperating inspection agency”
23 means the agency or person with whom the Secretary
24 enters into a cooperative agreement for the conduct of
25 official inspection under this Act;

(13) the terms “official certificate” and “official form” mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this Act;

(14) the term “official sample” means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term “official sampling” shall be construed accordingly) ;

(15) the term “lot” means a specific quantity of grain identified as such;

(16) the term “interested person” means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(17) the verb “ship” with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one’s own grain by any means of conveyance;

(18) the terms “false”, “incorrect”, and “misleading” mean, respectively, false, incorrect, and misleading in any particular;

(19) the term “deceptive loading, handling, or sampling” means any manner of loading, handling, or sampling that deceives or tends to deceive official inspec-

1 tion personnel, as specified by regulations of the Secre-
2 tary under this Act.

(b) When used in sections 8 and 19 of this Act, the term “State” means any State (including Puerto Rico) or any territory or possession of the United States (including the District of Columbia) .

7 STANDARDS

8 SEC. 4. (a) The Secretary is authorized to gather and
9 analyze information with respect to grain production,
10 handling, and marketing, and related activities for the pur-
11 pose of determining whether standards should be established,
12 amended, or revoked under this Act; and to establish,
13 on the basis of crop quality data, standards that will ac-
14 curately measure the kind, class, quality, condition, or other
15 characteristics of grain and that will best reflect the value
16 or usability of the grain, and to amend or revoke such stand-
17 ards, wherever in his judgment such action is necessary
18 or appropriate in order to accomplish any of the objectives
19 stated in section 2 of this Act.

(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year

1 after promulgation thereof, unless in the judgment of the
2 Secretary, the public health, interest, or safety requires that
3 they become effective sooner.

4 OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN
5 EXPORT GRAIN

6 SEC. 5. Whenever standards are effective under sec-
7 tion 4 of this Act for any grain, no person shall ship from
8 the United States to any place outside thereof any lot of
9 such grain that is sold, offered for sale, or consigned for sale
10 by grade, unless such lot is officially inspected in accordance
11 with such standards on the basis of official samples taken
12 as the grain is being loaded aboard, or while it is in, the
13 final carrier in which it is to be transported from the United
14 States, and unless a valid official certificate showing the
15 official grade designation of the lot of grain is promptly
16 furnished by the shipper, or his agent, to the consignee with
17 the bill of lading or other shipping documents covering the
18 shipment: *Provided, however,* That the Secretary may waive
19 any requirement of this section with respect to shipments
20 from or to any area or any other class of shipments when
21 in his judgment the application of such requirement to such
22 shipments is not necessary to effectuate any of the objectives
23 stated in section 2 of this Act, or it is impracticable to
24 provide official inspection with respect to such shipments.

1 REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND
2 PROHIBITION OF CERTAIN ACTS WITH RESPECT TO
3 EXPORT GRAIN

4 SEC. 6. (a) Whenever standards are effective under
5 section 4 of this Act for any grain no person shall in any
6 sale, offer for sale, or consignment for sale, which involves
7 the shipment of such grain from the United States to any
8 place outside thereof, describe such grain as being of any
9 grade in any advertising, price quotation, other negotiation
10 of sale, contract of sale, invoice, bill of lading, other shipping
11 document, or description on bags or other containers of the
12 grain, other than by an official grade designation, with or
13 without additional information as to specified factors.

14 (b) No person shall, in any sale, offer for sale, or con-
15 signment for sale, of any grain which involves the shipment
16 of such grain from the United States to any place outside
17 thereof, knowingly describe such grain by any official grade
18 designation, or other description, which is false or misleading.

19 OFFICIAL INSPECTION AUTHORITY AND FUNDING

20 SEC. 7. (a) The Secretary is authorized to cause official
21 inspection under the standards provided for in section 4 of this
22 Act to be made of all grain required to be officially inspected
23 as provided in section 5 of this Act, in accordance with such
24 regulations as he may prescribe.

25 (b) The Secretary is further authorized, upon request

1 of any interested person, and under such regulations as he
2 may prescribe, to cause official inspection to be made with
3 respect to any grain within or outside the United States under
4 standards provided for in section 4 of this Act, or under other
5 criteria approved by the Secretary for determining the kind,
6 class, quality, condition, or quantity of, or other facts relating
7 to, grain, whenever in his judgment providing such service
8 will effectuate any of the objectives stated in section 2 of this
9 Act.

10 (c) The regulations prescribed by the Secretary under
11 this Act may include provisions for reinspections and appeal
12 inspections and cancellation of false or incorrect certificates,
13 and the Secretary may provide by regulation that samples
14 obtained for purposes of official inspection shall become the
15 property of the United States, and such samples may be dis-
16 posed of without regard to the provisions of the Federal
17 Property and Administrative Services Act of 1949, as
18 amended (40 U.S.C. 471 et seq.).

19 (d) Certificates issued and not canceled under this
20 Act shall be received by all officers and all courts of the
21 United States as prima facie evidence of the truth of the
22 facts stated therein.

23 (e) The Secretary may, under such regulations as he
24 may prescribe, charge and collect reasonable fees to cover

1 the estimated total cost of official inspection except when
2 the inspection is performed by a cooperating inspection
3 agency under a cooperative agreement as provided in sec-
4 tion 8 of this Act. The fees authorized by this paragraph
5 shall, as nearly as practicable and after taking into considera-
6 tion any proceeds from the sale of samples, cover the costs
7 to the Department of Agriculture incident to the perform-
8 ance of the official inspection services for which the fees
9 are collected, including supervisory and administrative costs.
10 Such fees, and the proceeds from the sale of samples obtained
11 for purposes of official inspection which become the prop-
12 erty of the United States, shall be deposited into a fund which
13 shall be available, without fiscal year limitation, for the ex-
14 penses of the Department of Agriculture incident to pro-
15 viding official inspection services.

16 COOPERATIVE AGREEMENTS

17 SEC. 8. (a) The Secretary is authorized to enter into
18 cooperative agreements for the conduct of inspection work
19 under section 7 of this Act in any State with the State de-
20 partment of agriculture or other authorized State agency,
21 any authorized local governmental agency, any commercial
22 agency, or any person, that, in the opinion of the Secretary,
23 will provide adequate facilities and qualified personnel for
24 such inspection work. The Secretary may terminate any such
25 agreement whenever he determines that the cooperating

1 inspection agency has not complied with any requirement
2 under this Act or that such action is otherwise necessary
3 to effectuate any of the objectives stated in section 2 of this
4 Act.

5 (b) The estimated total cost incurred by the cooperating
6 inspection agency in providing such services under each
7 cooperative agreement may be financed by fees to be charged
8 and collected under the terms of such agreement. Such fees
9 shall be reasonable and equal as nearly as practicable to such
10 total cost of providing the services, after taking into con-
11 sideration any proceeds from the sale of samples, and shall
12 be used only for the purpose of performing and administer-
13 ing the official inspection services.

14 (c) Not more than one cooperative agreement for
15 carrying out the provisions of section 7 of this Act shall be
16 effective at one time for any one city, town, or other area
17 covered by any cooperative agreement.

18 LICENSES AND AUTHORIZATIONS

19 SEC. 9. (a) The Secretary is authorized to issue a li-
20 cense to any individual upon presentation to him of satis-
21 factory evidence that such individual is competent, and is
22 employed or operates independently under a cooperative
23 agreement, to perform all or specified functions involved in
24 official inspection; to authorize any competent employee of
25 the Department of Agriculture to perform all or specified

1 functions involved in official inspection; and to license any
2 other competent individual to perform specified functions
3 involved in official inspection under a contract with the De-
4 partment of Agriculture. No person shall perform any official
5 inspection functions for purposes of this Act unless he holds
6 an unsuspended and unrevoked license or authorization from
7 the Secretary under this Act.

8 (b) All classes of licenses issued under this Act shall
9 terminate triennially on a date or dates to be fixed by regula-
10 tion of the Secretary: *Provided*, That any license shall termi-
11 nate automatically when the licensee ceases to be employed or
12 to operate independently under the terms of a cooperative
13 agreement or contract for the conduct of any functions in-
14 volved in official inspection under this Act. Renewal of any
15 license may be refused in accordance with section 10 or when-
16 ever the Secretary determines for reasons not involving any
17 alleged incompetency or fault of the licensee that renewal
18 of the license would not effectuate the purposes of this Act.

19 (c) The Secretary may require such examinations and
20 reexaminations as he may deem warranted to determine the
21 competence of any applicants for licenses, licensees, or em-
22 ployees of the Department of Agriculture, to perform any
23 official inspection function under this Act.

24 (d) Persons performing official inspection functions

1 under cooperative agreements or contracts with the Depart-
2 ment of Agriculture shall not, unless otherwise employed by
3 the Federal Government, be deemed to be employees of the
4 Federal Government of the United States.

5 REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,
6 OF LICENSES

7 SEC. 10. The Secretary may refuse to renew, or may
8 suspend or revoke, any license issued under this Act when-
9 ever, after the licensee has had an opportunity to present
10 his views, the Secretary shall determine that such licensee
11 is incompetent, or has inspected grain for purposes of this
12 Act by any standard or criteria other than as provided for
13 in this Act, or has issued, or caused the issuance of, any false
14 or incorrect official certificate or other official form, or has
15 otherwise inspected grain improperly under this Act, or has
16 accepted any money or other consideration, directly or in-
17 directly, for any neglect or improper performance of duty, or
18 has used his license or allowed it to be used for any im-
19 proper purpose, or has otherwise violated any provision of
20 this Act or of the regulations prescribed or instructions
21 issued to him by the Secretary under this Act. The Secre-
22 tary may, without first affording the licensee an opportunity
23 to present his views, suspend any license temporarily pend-

1 ing final determination whenever the Secretary deems such
2 action to be in the best interests of the official inspection
3 system under this Act.

4 REFUSAL OF OFFICIAL INSPECTION

5 SEC. 11. (a) The Secretary may (for such period, or
6 indefinitely, as he deems necessary to effectuate the purposes
7 of this Act) refuse to provide official inspection otherwise
8 available under this Act with respect to any grain offered
9 for inspection, or owned, wholly or in part, by any person
10 if he determines (1) that the individual (or in case such
11 person is a partnership, any general partner; or in case such
12 person is a corporation, any officer, director, or holder or
13 owner of more than 10 per centum of the voting stock; or
14 in case such person is an unincorporated association or other
15 business entity, any officer or director thereof) has been
16 convicted of any violation of section 14 of this Act, or any
17 violation of section 10 of the Federal Trade Commission
18 Act of September 26, 1914, as amended (15 U.S.C. 50),
19 or the provisions of section 1001 of title 18, United States
20 Code, which involved any matter within the scope of this
21 Act, or that official inspection has been refused for any of
22 the above-specified causes (for a period which has not
23 expired) to such person, or any other person conducting
24 a business with which the former was, at the time such
25 cause existed, or is responsibly connected; and (2) that

1 providing official inspection with respect to such grain
2 would be inimical to the integrity of the official inspection
3 service.

4 (b) For purposes of paragraph (a) of this section,
5 a person shall be deemed to be responsibly connected with a
6 business if he was or is a partner, officer, director, holder,
7 or owner of 10 per centum or more of its voting stock, or
8 an employee in a managerial or executive capacity.

9 (c) Before official inspection is refused to any person
10 under paragraph (a) with respect to any grain required
11 to be inspected under section 5 of this Act such person shall
12 be afforded opportunity for a hearing, and before official
13 inspection is refused in all other cases under paragraph (a)
14 the affected person shall be afforded opportunity to present
15 his views.

16 PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

17 SEC. 12. No person licensed or authorized by the Secre-
18 tary to perform any official inspection function under this
19 Act, or employed by the Secretary in otherwise carrying
20 out any of the provisions of this Act, shall, during the term
21 of such license, authorization, or employment, (a) be finan-
22 cially interested (directly or otherwise) in any business
23 entity owning or operating any grain elevator or warehouse
24 or engaged in the merchandising of grain, or (b) be in the
25 employment of, or accept gratuities from, any such entity,

1 or (c) be engaged in any other kind of activity specified
2 by regulation of the Secretary as involving a conflict of
3 interest: *Provided, however,* That the Secretary may license
4 qualified employees of any grain elevators or warehouses to
5 perform official sampling functions, under such conditions as
6 the Secretary may by regulation prescribe, and the Secretary
7 may by regulation provide such other exceptions to the re-
8 strictions of this section as he determines are consistent with
9 the purposes of this Act.

10 RECORDS

11 SEC. 13. (a) Every cooperating inspection agency and
12 every person licensed to perform any official inspection func-
13 tion under this Act shall maintain such samples of officially
14 inspected grain and such other records as the Secretary may
15 by regulation prescribe for the purposes of administration and
16 enforcement of this Act.

17 Every person who makes any shipment from the United
18 States of grain for which inspection is required under section
19 5 of this Act, or who submits grain for inspection under this
20 Act, shall maintain such complete and correct records with
21 respect to the shipment and merchandising of grain to the
22 extent he is concerned therewith as the Secretary may by
23 regulation prescribe for the purposes of administration and
24 enforcement of this Act.

25 (b) Every cooperating inspection agency and other

1 person required to maintain records under this section shall
2 keep such records for a period of two years after the inspec-
3 tion or transaction, which is the subject of the record, oc-
4 curred: *Provided, however,* That the Secretary may prescribe
5 a shorter retention period for grain samples when in his
6 judgment such shorter period is sufficient, or a longer reten-
7 tion period, not to exceed three additional years, for any of
8 such records in specific cases, whenever in his judgment the
9 retention of such records for the longer period is necessary,
10 for the effective administration and enforcement of this Act.

11 (c) Every cooperating inspection agency and other per-
12 son required to maintain records under this section shall
13 permit any authorized representative of the Secretary to
14 have access to, and to copy, such records at all reasonable
15 times.

16 PROHIBITED ACTS

17 SEC. 14. (a) No person shall—

18 (1) knowingly falsely make, issue, alter, forge, or
19 counterfeit any official certificate or other official form or
20 official inspection mark;

21 (2) knowingly utter, publish, or use as true any
22 falsely made, issued, altered, forged, or counterfeited offi-
23 cial certificate or other official form or official inspection
24 mark, or knowingly possess, without promptly notifying
25 the Secretary or his representative, or fail to surrender

1 to such a representative upon demand, any falsely made,
2 issued, altered, forged, or counterfeited official inspection
3 certificate or other official form, or any device for making
4 any official inspection mark or simulation thereof, or
5 knowingly possess any grain in a container bearing any
6 falsely made, issued, altered, forged, or counterfeited
7 official inspection mark without promptly giving such
8 notice;

9 (3) knowingly cause or attempt (whether success-
10 fully or not) to cause the issuance of a false or incorrect
11 official certificate or other official form by any means,
12 including but not limited to deceptive loading, handling,
13 or sampling of grain, or submitting grain for official in-
14 spection knowing that it has been deceptively loaded,
15 handled, or sampled, without disclosing such knowledge
16 to the official inspection personnel before official sam-
17 pling;

18 (4) alter any official sample of grain in any manner
19 or, knowing that an official sample has been altered,
20 thereafter represent it as an official sample;

21 (5) knowingly use any official grade designation or
22 official inspection mark on any container of grain by
23 means of a tag, label, or otherwise, unless the grain in
24 such container was officially inspected on the basis of an
25 official sample taken while the grain was being loaded

1 into or was in such container and the grain was found to
2 qualify for such designation or mark;

3 (6) knowingly make any false representation that
4 any grain has been officially inspected, or officially in-
5 spected and found to be of a particular kind, class, qual-
6 ity, condition, or quantity, or that particular facts have
7 been established with respect to grain by official in-
8 spection under this Act;

9 (7) improperly influence, or attempt to improperly
10 influence, any official inspection personnel or any officer
11 or employee of the Department of Agriculture with re-
12 spect to the performance of his duties under this Act;

13 (8) forcibly assault, resist, oppose, impede, intimi-
14 date, or interfere with any official inspection personnel
15 or any officer or employee of the Department of Agri-
16 culture in, or on account of, the performance of his
17 duties under this Act;

18 (9) falsely represent that he is licensed or author-
19 ized to perform an official inspection function under this
20 Act;

21 (10) use any false or misleading means in connec-
22 tion with the making or filing of an application for
23 official inspection; or

24 (11) violate any provision of section 5, 6, 9, 12, or
25 13 of this Act.

1 (b) No person licensed or authorized to perform any
2 function under this Act shall—

3 (1) commit any offense prohibited by subsection
4 (a) ;

5 (2) knowingly perform improperly any official
6 sampling or other official inspection function under this
7 Act;

8 (3) knowingly execute or issue any false or incor-
9 rect official certificate or other official form; or

10 (4) accept money or other consideration, directly
11 or indirectly, for any neglect or improper performance of
12 duty.

13 (c) An offense shall be deemed to have been committed
14 knowingly under this Act if it resulted from gross negligence
15 or a failure to make a reasonable effort to ascertain the
16 pertinent facts, or was otherwise committed with knowledge
17 of such facts.

18 PENALTIES

19 SEC. 15. (a) Any person who commits any offense
20 prohibited by section 14 shall be guilty of a misdemeanor
21 and shall, on conviction thereof, be subject to imprisonment
22 for not more than six months, or a fine of not more than
23 \$3,000, or both such imprisonment and fine; but if such
24 offense is committed after one conviction of such person
25 under this section has become final, such person shall be

1 subject to imprisonment for not more than one year, or a fine
2 of not more than \$5,000, or both such imprisonment and
3 fine.

4 (b) Nothing in this Act shall be construed as requiring
5 the Secretary to report minor violations of this Act for
6 criminal prosecution whenever he believes that the public
7 interest will be adequately served by a suitable written notice
8 or warning.

9 RESPONSIBILITY FOR ACTS OF OTHERS

10 SEC. 16. When administering and enforcing the pro-
11 visions of this Act, the knowledge, act, omission, or failure
12 of any person employed by or acting for any other person,
13 within the scope of his employment or agency, shall, in every
14 case, be deemed the knowledge, act, omission, or failure of
15 the latter person as well as that of the former.

16 GENERAL AUTHORITIES

17 SEC. 17. The Secretary is authorized to conduct such in-
18 vestigations, hold such hearings, require such reports from
19 any cooperating inspection agency or any person, and pre-
20 scribe such rules and regulations as he deems necessary to
21 effectuate the purposes or provisions of this Act. Whether
22 any certificate, other form, representation, designation, or
23 other description is false, incorrect, or misleading within the
24 meaning of this Act shall be determined by tests made in
25 accordance with such procedures as the Secretary may adopt

1 to effectuate the objectives of this Act, if the relevant facts are
2 determinable by such tests. Proceedings under section 10 or
3 11 of this Act for refusal to renew, or for suspension or rev-
4 ocation of, a license, or for refusal of official inspection
5 service not required by section 5 of this Act, shall not be
6 subject to the administrative procedure provisions in sections
7 556 and 557 of title 5, United States Code.

8 ENFORCEMENT PROVISIONS

9 SEC. 18. (a) For the efficient administration and en-
10 forcement of this Act, the provisions (including penalties)
11 of sections 6, 8, 9, and 10 of the Act entitled “An Act to
12 create a Federal Trade Commission, to define its powers and
13 duties, and for other purposes”, approved September 26,
14 1914 (38 Stat. 721–723), as amended (15 U.S.C. 46, 48,
15 49, and 50) (except paragraphs (c) through (h) of section
16 6 and the last paragraph of section 9), and the provisions of
17 paragraph 409 (1) of the Communications Act of 1934 (48
18 Stat. 1096, as amended; 47 U.S.C. 409 (1)) are made
19 applicable to the jurisdiction, powers, and duties of the Secre-
20 tary in administering and enforcing the provisions of this Act
21 and to any person as defined in this Act with respect to
22 whom such authority is exercised. The Secretary, in person
23 or by such agents as he may designate, may prosecute any
24 inquiry necessary to his duties under this Act in any part of
25 the United States, and the powers conferred by said sections

1 9 and 10 of the Act of September 26, 1914, as amended, on
2 the district courts of the United States may be exercised for
3 the purposes of this Act by any court designated in para-
4 graph (b) of this section.

5 (b) The United States District Courts, the District
6 Court of Guam, the District Court of the Virgin Islands, the
7 highest court of American Samoa, and the United States
8 courts of the other territories and possessions of the United
9 States shall have jurisdiction in cases arising under this Act.

10 RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF
11 PROVISIONS

12 SEC. 19. (a) No State or subdivision thereof may re-
13 quire the inspection or description in accordance with any
14 standards of kind, class, quality, condition or other character-
15 istics of grain as a condition of shipment, or sale, of such grain
16 in interstate or foreign commerce, or require any license for,
17 or impose any other restrictions upon, the performance of any
18 official inspection function under this Act by official inspection
19 personnel. Otherwise nothing in this Act shall invalidate any
20 law or other provision of any State or subdivision thereof in
21 the absence of a conflict with this Act.

22 (b) If any provision of this Act or the application
23 thereof to any person or circumstances is held invalid, the
24 validity of the remainder of the Act and of the application of

1 such provision to other persons and circumstances shall not
 2 be affected thereby.

3 APPROPRIATIONS

4 SEC. 20. There are hereby authorized to be appropriated
 5 such sums as are necessary to carry out the provisions of this
 6 Act to the extent that financing is not obtained from the fees
 7 and sale of samples as provided for in section 7 of this Act.

90TH CONGRESS
 1ST SESSION

S. 2069

A BILL

To provide for United States standards and a
 national inspection system for grain, and for
 other purposes.

By Mr. ELLENDER

JULY 10, 1967

Read twice and referred to the Committee on
 Agriculture and Forestry

90TH CONGRESS
2D SESSION

H. R. 15794

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 1968

Mr. PURCELL introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To provide for United States standards and a national inspection system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting
4 of part B of "An Act Making appropriations for the De-
5 partment of Agriculture for the fiscal year ending June
6 thirtieth, nineteen hundred and seventeen, and for other
7 purposes", approved August 11, 1916 (39 Stat. 446, at
8 482), as amended (7 U.S.C. 71-87), is hereby amended
9 to read as follows:

1 “SHORT TITLE

2 “SECTION 1. This Act may be cited as the ‘United
3 States Grain Standards Act’.

4 “DECLARATION OF POLICY

5 “SEC. 2. Grain is an essential source of the world’s total
6 supply of human food and animal feed and is merchandised
7 in interstate and foreign commerce. It is declared to be the
8 policy of the Congress, for the promotion and protection of
9 such commerce in the interests of producers, merchandisers,
10 warehousemen, processors, and consumers of grain, and the
11 general welfare of the people of the United States, to provide
12 for the establishment of official United States standards for
13 grain, to promote the uniform application thereof by official
14 inspection personnel, and to provide for an official inspection
15 system for grain; with the objectives that grain may be
16 marketed in an orderly manner and that trading in grain
17 may be facilitated.

18 “DEFINITIONS

19 “SEC. 3. When used in this Act, except where the con-
20 text requires otherwise—

21 “(a) the term ‘Secretary’ means the Secretary of
22 Agriculture of the United States or his delegates;

23 “(b) the term ‘Department of Agriculture’ means
24 the United States Department of Agriculture;

1 “(c) the term ‘person’ means any individual, part-
2 nership, corporation, association, or other business entity ;

3 “(d) the term ‘United States’ means the States
4 (including Puerto Rico) and the territories and posses-
5 sions of the United States (including the District of
6 Columbia) ;

7 “(e) the term ‘State’ means any one of the States
8 (including Puerto Rico) or territories or possessions of
9 the United States (including the District of Columbia) ;

10 “(f) the term ‘interstate or foreign commerce’
11 means commerce from any State to or through any
12 other State, or to or through any foreign country ;

13 “(g) the term ‘grain’ means corn, wheat, rye, oats,
14 barley, flaxseed, grain sorghum, soybeans, mixed grain,
15 and any other food grains, feed grains, and oilseeds for
16 which standards are established under section 4 of this
17 Act.

18 “(h) the term ‘export grain’ means grain for ship-
19 ment from the United States to any place outside thereof ;

20 “(i) the term ‘official inspection’ means the deter-
21 mination and the certification, by official inspection per-
22 sonnel, of the kind, class, quality, condition, or quantity
23 of sacks of grain, under standards provided for in this
24 Act or, upon request of the interested person applying

1 for inspection, other criteria approved by the Secretary
2 under this Act (the term 'officially inspected' shall be
3 construed accordingly) ;

4 “ (j) the term 'official inspection personnel' means
5 employees of State or other governmental agencies or
6 commercial agencies or other persons who are licensed
7 to perform all or specified functions involved in official
8 inspection under this Act; employees of the Department
9 of Agriculture who are authorized to supervise official
10 inspection and to conduct appeal inspection or initial
11 inspection of United States grain in Canadian ports ;

12 “ (k) the term 'official inspection mark' means any
13 symbol prescribed by regulations of the Secretary to
14 show the official determination of the kind, class, qual-
15 ity, condition, or quantity of, or other facts relating to
16 grain, under standards provided for in this Act or, upon
17 request of the interested person applying for inspection,
18 other criteria approved by the Secretary under this Act;

19 “ (l) the term 'official grade designation' means
20 a numerical or sample grade designation, specified in the
21 standards provided for in this Act;

22 “ (m) the term 'official inspection agency' means
23 the agency or person located at an inspection point
24 designated by the Secretary for the conduct of official
25 inspection under this Act;

1 “(n) the term ‘official certificate’ and ‘official form’
2 mean, respectively, a certificate or other form prescribed
3 by regulations of the Secretary under this Act;

4 “(o) the term ‘official sample’ means a sample ob-
5 tained from a lot of grain by, and submitted for official
6 inspection by, official inspection personnel (the term
7 ‘official sampling’ shall be construed accordingly) ;

8 “(p) the term ‘submitted sample’ means a sample
9 submitted by or for an interested person for official in-
10 spection, other than an official sample;

11 “(q) the term ‘lot’ means a specific quantity of
12 grain identified as such;

13 “(r) the term ‘interested person’ means any person
14 having a contract or other financial interest in grain as
15 the owner, seller, purchaser, warehouseman, or carrier,
16 or otherwise;

17 “(s) the verb ‘ship’ with respect to grain means
18 transfer physical possession of the grain to another per-
19 son for the purpose of transportation by any means of
20 conveyance, or transport one’s own grain by any means
21 of conveyance;

22 “(t) the terms ‘false’, ‘incorrect’, and ‘misleading’
23 mean, respectively, false, incorrect, and misleading in any
24 particular;

1 “(u) the term ‘deceptive loading, handling, or
2 sampling’ means any manner of loading, handling, or
3 sampling that deceives or tends to deceive official inspec-
4 tion personnel, as specified by regulations of the Secre-
5 tary under this Act.

6 “STANDARDS

7 “SEC. 4. (a) The Secretary is authorized to investigate
8 the handling, grading, and transportation of grain and to fix
9 and establish standards of kind, class, quality, and condition
10 for corn, wheat, rye, oats, barley, flaxseed, grain sorghum,
11 soybeans, mixed grain, and such other grains as in his judg-
12 ment the usages of the trade may warrant and permit, and
13 the Secretary is authorized to amend or revoke such stand-
14 ards whenever the necessities of the trade may require.

“(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner

“OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN
EXPORT GRAIN

3 “SEC. 5. Whenever standards are effective under sec-
4 tion 4 of this Act for any grain, no person shall ship from
5 the United States to any place outside thereof any lot of
6 such grain that is sold, offered for sale, or consigned for sale
7 by grade, unless such lot is officially inspected in accord-
8 ance with such standards on the basis of official samples taken
9 after final elevation as the grain is being loaded aboard,
10 or while it is in, the final carrier in which it is to be trans-
11 ported from the United States, and unless a valid official cer-
12 tificate showing the official grade designation of the lot of
13 grain is promptly furnished by the shipper, or his agent, to
14 the consignee with the bill of lading or other shipping
15 documents covering the shipment: *Provided, however,* That
16 the Secretary may waive any requirement of this section
17 with respect to shipments from or to any area or any other
18 class of shipments when in his judgment it is impracticable
19 to provide official inspection with respect to such shipments.

“REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND
PROHIBITION OF CERTAIN ACTS WITH RESPECT TO
CERTAIN GRAIN

23 “SEC. 6. (a) Whenever standards are effective under
24 section 4 of this Act for any grain no person shall in any
25 sale, offer for sale, or consignment for sale, which involves

1 the shipment of such grain in interstate or foreign commerce,
2 describe such grain as being of any grade in any advertising,
3 price quotation, other negotiation of sale, contract of sale,
4 invoice, bill of lading, other document, or description on bags
5 or other containers of the grain, other than by an official
6 grade designation, with or without additional information as
7 to specified factors: *Provided*, That, with respect to inter-
8 state commerce, the description of such grain by any propri-
9 etary brand name or trademark that does not resemble an
10 official grade designation, or by the use of one or more grade
11 factor designations set forth in the official United States
12 standards for grain, or by other factor information shall not
13 be deemed to be a description of grain as being of any grade.

14 “(b) No person shall, in any sale, offer for sale, or
15 consignment for sale, of any grain which involves the ship-
16 ment of such grain from the United States to any place out-
17 side thereof, knowingly describe such grain by any official
18 grade designation, or other description, which is false or
19 misleading.

20 “OFFICIAL INSPECTION AUTHORITY AND FUNDING

21 “SEC. 7. (a) The Secretary is authorized to cause official
22 inspection under the standards provided for in section 4 of
23 this Act to be made of all grain required to be officially in-
24 spected as provided in section 5 of this Act, in accordance
25 with such regulations as he may prescribe.

1 “(b) The Secretary is further authorized, upon request
2 of any interested person, and under such regulations as he
3 may prescribe, to cause official inspection to be made with
4 respect to any grain whether by official sample, submitted
5 sample, or otherwise within the United States or with respect
6 to United States grain in Canadian ports under standards
7 provided for in section 4 of this Act, or, upon request of
8 the interested person, under other criteria approved by the
9 Secretary for determining the kind, class, quality, condition,
10 or quantity of, or other facts relating to, grain, whenever in
11 his judgment providing such service will effectuate any of
12 the objectives stated in section 2 of this Act.

13 “(c) The regulations prescribed by the Secretary under
14 this Act shall include provisions for reinspections and appeal
15 inspections; cancellation of certificates superseded by re-
16 inspections and appeal inspections. The Secretary may pro-
17 vide by regulation that samples obtained by or for employees
18 of the Department of Agriculture for purposes of official in-
19 spection shall become the property of the United States, and
20 such samples may be disposed of without regard to the pro-
21 visions of the Federal Property and Administrative Services
22 Act of 1949, as amended (40 U.S.C. 471 et seq.).

23 “(d) Certificates issued and not canceled under this
24 Act shall be received by all officers and all courts of the

1 United States as prima facie evidence of the truth of the
2 facts stated therein.

3 “(e) The Secretary may, under such regulations as
4 he may prescribe, charge and collect reasonable fees to cover
5 the estimated total cost of official inspection except when the
6 inspection is performed by employees of an official inspection
7 agency. The fees authorized by this paragraph shall, as
8 nearly as practicable and after taking into consideration any
9 proceeds from the sale of samples, cover the costs of the
10 Department of Agriculture incident to the performance of
11 appeal and Canadian port inspection services for which the
12 fees are collected, including supervisory and administrative
13 costs. Such fees, and the proceeds from the sale of samples
14 obtained for purposes of official inspection which become the
15 property of the United States, shall be deposited into a fund
16 which shall be available, without fiscal year limitation, for the
17 expenses of the Department of Agriculture incident to pro-
18 viding official inspection services.

19 “(f) Not more than one inspection agency for carrying
20 out the provisions of this section shall be operative at one
21 time for any one city, town, or other area.

22 “LICENSES AND AUTHORIZATIONS

23 “SEC. 8. (a) The Secretary is authorized to issue a
24 license to any individual upon presentation to him of satis-
25 factory evidence that such individual is competent, and is

1 employed by an official inspection agency to perform all or
2 specified functions involved in official inspection; to author-
3 ize any competent employee of the Department of Agricul-
4 ture to perform all or specified functions involved in super-
5 visory or appeal inspection or initial inspection of United
6 States grain in Canadian ports; and to license any other
7 competent individual to perform specified functions involved
8 in official inspection under a contract with the Department
9 of Agriculture. No person shall perform any official inspec-
10 tion functions for purposes of this Act unless he holds an
11 unsuspended and unrevoked license or authorization from
12 the Secretary under this Act.

13 “ (b) All classes of licenses issued under this Act shall
14 terminate triennially on a date or dates to be fixed by regu-
15 lation of the Secretary: *Provided*, That any license shall be
16 suspended automatically when the licensee ceases to be em-
17 ployed by an official inspection agency or to operate inde-
18 pendently under the terms of a contract for the conduct of
19 any functions involved in official inspection under this Act:
20 *Provided further*, That subject to paragraph (c) of this sec-
21 tion, such license shall be reinstated if the licensee is em-
22 ployed by an official inspection agency or resumes operation
23 under such a contract within one year of the suspension
24 date and the license has not expired in the interim.

25 “ (c) The Secretary may require such examinations and

1 reexaminations as he may deem warranted to determine the
2 competence of any applicants for licenses, licensees, or em-
3 ployees of the Department of Agriculture, to perform any
4 official inspection function under this Act.

5 “(d) Persons employed by an official inspection agency
6 and persons performing official inspection functions under or
7 contracts with the Department of Agriculture shall not, unless
8 otherwise employed by the Federal Government, be deemed
9 to be employees of the Federal Government of the United
10 States.

11 “REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,

12 OF LICENSES

13 “SEC. 9. The Secretary may refuse to renew, or may
14 suspend or revoke, any license issued under this Act when-
15 ever, after the licensee has been afforded an opportunity for
16 a hearing, the Secretary shall determine that such licensee is
17 incompetent, or has inspected grain for purposes of this Act
18 by any standard or criteria other than as provided for in this
19 Act, or has issued, or caused the issuance of, any false or
20 incorrect official certificate or other official form, or has other-
21 wise inspected grain improperly under this Act, or has
22 accepted any money or other consideration, directly or indi-
23 rectly, for any neglect or improper performance of duty, or
24 has used his license or allowed it to be used for any improper
25 purpose, or has otherwise violated any provision of this Act

1 or of the regulations prescribed or instructions issued to him
2 by the Secretary under this Act. The Secretary may, without
3 first affording the licensee an opportunity for a hearing, sus-
4 pend any license temporarily pending final determination
5 whenever the Secretary deems such action to be in the best
6 interests of the official inspection system under this Act.

7 “REFUSAL OF OFFICIAL INSPECTION

8 “SEC. 10. (a) The Secretary may (for such period,
9 or indefinitely, as he deems necessary to effectuate the pur-
10 poses of this Act) refuse to provide official inspection other-
11 wise available under the Act with respect to any grain offered
12 for inspection, or owned, wholly or in part, by any person if
13 he determines (1) that the individual (or in case such per-
14 son is a partnership, any general partner; or in case such
15 person is a corporation, any officer, director, or holder or
16 owner of more than 10 per centum of the voting stock; or
17 in case such person is an unincorporated association or other
18 business entity, any officer or director thereof) has committed
19 any repeated or flagrant violation of section 14 of this Act,
20 or that official inspection has been refused for any of the
21 above-specified causes (for a period which has not expired)
22 to such person, or any other person conducting a business
23 with which the former was, at the time such cause existed,
24 or is responsibly connected; and (2) that providing official

1 inspection with respect to such grain would be inimical to the
2 integrity of the official inspection service.

3 “(b) For purposes of paragraph (a) of this section, a
4 person shall be deemed to be responsibly connected with a
5 business if he was or is a partner, officer, director, holder, or
6 owner of 10 per centum or more of its voting stock, or an
7 employee in a managerial or executive capacity.

8 “(c) Before official inspection is refused to any person
9 under paragraph (a), such person shall be afforded oppor-
10 tunity for a hearing.

11 “PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

12 “SEC. 11. No person licensed or authorized by the Secre-
13 tary to perform any official inspection function under this
14 Act, or employed by the Secretary in otherwise carrying out
15 any of the provisions of this Act, shall, during the term of
16 such license, authorization, or employment, (a) be finan-
17 cially interested (directly or otherwise) in any business
18 entity owning or operating any grain elevator or warehouse
19 or engaged in the merchandising of grain, or (b) be in the
20 employment of, or accept gratuities from, any such entity, or
21 (c) be engaged in any other kind of activity specified by
22 regulation of the Secretary as involving a conflict of interest:
23 *Provided, however,* That the Secretary may license qualified
24 employees of any grain elevators or warehouses to perform
25 official sampling functions, under such conditions as the Sec-

1 retary may by regulation prescribe, and the Secretary may
2 by regulation provide such other exceptions to the restrictions
3 of this section as he determines are consistent with the pur-
4 poses of this Act.

5 “RECORDS

6 “SEC. 12. (a) Every official inspection agency and
7 every person licensed to perform any official inspection func-
8 tion under this Act shall maintain such samples of officially
9 inspected grain and such other records as the Secretary may
10 by regulation prescribe for the purpose of administration and
11 enforcement of this Act.

12 “(b) Every official inspection agency required to main-
13 tain records under this section shall keep such records for a
14 period of two years after the inspection or transaction, which
15 is the subject of the record, occurred: *Provided, however,*
16 That grain samples shall be required to be maintained only
17 for such period not in excess of ninety days as the Secretary
18 shall prescribe; and in specific cases other records may be
19 required by the Secretary to be maintained for not more than
20 three years in addition to said two-year period whenever in
21 his judgment the retention of such records for the longer
22 period is necessary for the effective administration and en-
23 forcement of this Act.

24 “(c) Every official inspection agency required to main-
25 tain records under this section shall permit any authorized

1 representative of the Secretary to have access to, and to copy,
2 such records at all reasonable times.

3 "PROHIBITED ACTS

4 "SEC. 13. (a) No person shall—

5 " (1) knowingly falsely make, issue, alter, forge, or
6 counterfeit any official certificate or other official form or
7 official inspection mark;

8 " (2) knowingly utter, publish, or use as true any
9 falsely made, issued, altered, forged, or counterfeited
10 official certificate or other official form or official inspec-
11 tion mark, or knowingly possess, without promptly noti-
12 fying the Secretary or his representative, or fail to sur-
13 render to such a representative upon demand, any falsely
14 made, issued, altered, forged, or counterfeited official
15 inspection certificate or other official form, or any device
16 for making any official inspection mark or simulation
17 thereof, or knowingly possess any grain in a container
18 bearing any falsely made, issued, altered, forged, or
19 counterfeited official inspection mark without promptly
20 giving such notice;

21 " (3) knowingly cause or attempt (whether suc-
22 cessfully or not) to cause the issuance of a false or incor-
23 rect official certificate or other official form by any means,
24 or sampling of grain, or submitting grain for official
25 including but not limited to deceptive loading, handling,

1 inspection knowing that it has been deceptively loaded,
2 handled, or sampled, without disclosing such knowledge
3 to the official inspection personnel before official
4 sampling;

5 “(4) alter any official sample of grain in any
6 manner or, knowing that an official sample has been
7 altered, thereafter represent it as an official sample;

8 “(5) knowingly use any official grade designation
9 or official inspection mark on any container of grain
10 by means of a tag, label, or otherwise, unless the grain
11 in such container was officially inspected on the basis of
12 an official sample taken while the grain was being loaded
13 into or was in such container and the grain was found
14 to qualify for such designation or mark;

15 “(6) knowingly make any false representation that
16 any grain has been officially inspected, or officially
17 inspected and found to be of a particular kind, class,
18 quality, condition, or quantity, or that particular facts
19 have been established with respect to grain by official
20 inspection under this Act;

21 “(7) improperly influence, or attempt to improp-
22 erly influence, any official inspection personnel or any
23 officer or employee of the Department of Agriculture
24 with respect to the performance of his duties under this
25 Act;

1 “(8) forcibly assault, resist, oppose, impede, intimi-
2 date, or interfere with any official inspection personnel
3 or any officer or employee of the Department of Agricul-
4 ture in, or on account of, the performance of his duties
5 under this Act;

6 “(9) falsely represent that he is licensed or author-
7 ized to perform and official inspection function under this
8 Act;

9 “(10) use any false or misleading means in connec-
10 tion with the making or filing of an application for official
11 inspection; or

12 “(11) violate any provision of sections 5, 6, 8, 11,
13 or 12 of this Act.

14 “(b) No person licensed or authorized to perform any
15 function under this Act shall—

16 “(1) commit any offense prohibited by subsection
17 (a) ;

18 “(2) knowingly perform improperly any official
19 sampling or other official inspection function under this
20 Act;

21 “(3) knowingly execute or issue any false or incor-
22 rect official certificate or other official form; or

23 “(4) accept money or other consideration, directly
24 or indirectly, for any neglect or improper performance
25 of duty.

1 “(c) An offense shall be deemed to have been com-
2 mitted knowingly under this Act if it resulted from gross
3 negligence or was committed with knowledge of the perti-
4 nent facts.

5 “PENALTIES

6 “SEC. 14. (a) Any person who commits any offense
7 prohibited by section 13 shall be guilty of a misdemeanor
8 and shall, on conviction thereof, be subject to imprisonment
9 for not more than six months, a fine of not more than
10 \$3,000 or both such imprisonment and fine; but if such
11 offense is committed after one conviction of such person
12 under this section has become final, such person shall be
13 subject to imprisonment for not more than one year, or a
14 fine of not more than \$5,000, or both such imprisonment and
15 fine.

16 “(b) Nothing in this Act shall be construed as requiring
17 the Secretary to report minor violations of this Act for
18 criminal prosecution whenever he believes that the public
19 interest will be adequately served by a suitable written
20 notice or warning.

21 “RESPONSIBILITY FOR ACTS OF OTHERS

22 “SEC. 15. When construing and enforcing the provisions
23 of this Act, the act, omission, or failure of any official,
24 agent, or other person acting for or employed by any asso-
25 ciation, partnership, or corporation within the scope of his

1 employment or office shall, in every case, also be deemed
2 the act, omission, or failure of such association, partnership,
3 or corporation as well as that of the person.

4 "GENERAL AUTHORITIES

5 "SEC. 16. The Secretary is authorized to conduct such
6 investigations, hold such hearings, require such reports from
7 any official inspection agency or any person, and prescribe
8 such rules and regulations as he deems necessary to effectu-
9 ate the purposes or provisions of this Act. Whether any cer-
10 tificate, other form, representation, designation, or other
11 description is false, incorrect, or misleading within the mean-
12 ing of this Act shall be determined by tests made in accord-
13 ance with such procedures as the Secretary may adopt to
14 effectuate the objectives of this Act, if the relevant facts
15 are determinable by such tests. Proceedings under section
16 9 or 10 of this Act for refusal to renew, or for suspension or
17 revocation of, a license, or for refusal of official inspection
18 service not required by section 5 of this Act, shall not, un-
19 less requested by the respondent, be subject to the adminis-
20 trative procedure provisions in sections 554, 556, and 557
21 of title 5, United States Code.

22 "ENFORCEMENT PROVISIONS

23 "SEC. 17. (a) For the purposes of this Act, the Secre-
24 tary shall at all reasonable times have access to, for the pur-
25 pose of examination, and the right to copy any documentary

1 evidence of any person with respect to whom such authority
2 is exercised; and the Secretary shall have power to require
3 by subpoena the attendance and testimony of witnesses and
4 the production of all such documentary evidence relating to
5 any matter under investigation, and may administer oaths
6 and affirmations, examine witnesses, and receive evidence.

7 “(b) Such attendance of witnesses, and the production
8 of such documentary evidence, may be required from any
9 place in the United States, at any designated place of hear-
10 ing. In case of disobedience to a subpoena the Secretary may
11 invoke the aid of any court designated in paragraph (h)
12 of this section in requiring the attendance and testimony of
13 witnesses and the production of documentary evidence.

14 “(c) Any such court within the jurisdiction of which
15 such inquiry is carried on may, in case of contumacy or re-
16 fusals to obey a subpoena issued to any person, issue an order
17 requiring such person to appear before the Secretary or to
18 produce documentary evidence if so ordered, or to give evi-
19 dence touching the matter in question; and any failure to
20 obey such order of the court may be punished by such court
21 as a contempt thereof.

22 “(d) Witnesses summoned before the Secretary shall
23 be paid the same fees and mileage that are paid witnesses
24 in the courts of the United States, and witnesses from deposi-
25 tions are taken and the persons taking the same shall several-

1 ly be entitled to the same fees as are paid for like services in
2 the courts of the United States.

3 “(e) Any person who shall neglect or refuse to attend
4 and testify, or to answer any lawful inquiry, or to produce
5 documentary evidence, if in his power to do so, in obedience
6 to the subpoena or lawful requirement of the Secretary, shall
7 be guilty of a misdemeanor, and upon conviction thereof be
8 subject to the penalties set forth in section 15 of this Act.

9 “(f) No person shall be excused from attending and
10 testifying or from producing documentary evidence before
11 the Secretary, or in obedience to the subpoena of the Secre-
12 tary, or in any cause or proceeding, criminal or otherwise,
13 based upon or growing out of any alleged violation of this
14 Act, or of any amendments thereto, on the ground or for the
15 reason that the testimony or evidence, documentary or other-
16 wise, required of him may tend to incriminate him or subject
17 him to a penalty or forfeiture; but no individual shall be pros-
18 ecuted or subjected to any penalty or forfeiture for or on
19 account of any transaction, matter, or thing concerning which
20 he is compelled, after having claimed his privilege against
21 self-incrimination, to testify or produce evidence, documen-
22 tary or otherwise, except that any individual so testifying
23 shall not be exempt from prosecution and punishment for
24 perjury committed in so testifying.

25 “(g) Any officer or employee of the Department of

1 Agriculture who shall make public any information obtained
2 under this Act by the Department of Agriculture, without its
3 authority, unless directed by the court, shall be guilty of a
4 misdemeanor, and upon conviction thereof be subject to the
5 penalties set forth in section 14 of this Act.

6 “(h) The United States district courts, the District
7 Court of Guam, the District Court of the Virgin Islands, the
8 highest court of American Samoa, and the United States
9 courts of the other territories and possessions of the United
10 States shall have jurisdiction in cases arising under this Act.

11 “RELATION TO STATE AND LOCAL LAWS; SEPARABILITY
12 OF PROVISIONS

13 “SEC. 18. (a) No State or subdivision thereof may re-
14 quire the inspection or description in accordance with any
15 standards of kind, class, quality, condition, or other char-
16 acteristics of grain as a condition of shipment, or sale, of such
17 grain in interstate or foreign commerce, or require any
18 license for, or impose any other restrictions upon, the per-
19 formance of any official inspection function under this Act
20 by official inspection personnel. Otherwise nothing in this
21 Act shall invalidate any law or other provision of any State
22 or subdivision thereof in the absence of a conflict with this
23 Act.

24 “(b) If any provision of this Act or the application
25 thereof to any person or circumstances is held invalid, the

1 validity of the remainder of the Act and of the application
2 of such provision to other persons and circumstances shall not
3 be affected thereby.

4 “APPROPRIATIONS

5 “SEC. 19. There are hereby authorized to be appropri-
6 ated such sums as are necessary to carry out the provisions
7 of this Act to the extent that financing is not obtaining from
8 the fees and sale of samples as provided for in section 7 of
9 this Act.

10 “EFFECTIVE DATE

11 “SEC. 20. This Act shall become effective one hundred
12 and eighty days after enactment hereof, except that the re-
13 peal of the mandatory inspection provisions with respect to
14 grain shipped or delivered for shipment in interstate com-
15 merce shall become effective thirty days after enactment
16 hereof and the provisions of paragraphs 6(a) and 13(a)
17 (5) of this Act shall then become effective with respect to
18 such grain.”

A BILL

To provide for United States standards and a national inspection system for grain, and for other purposes.

By Mr. PURCELL

MARCH 6, 1968

Referred to the Committee on Agriculture

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued May 2, 1968
For actions of May 1, 1968
90th-2nd; No. 73

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HIGHLIGHTS: House passed agricultural appropriation bill. House committee reported grain-standards and emergency-loans measures. Rep. Mahon inserted Appropriations Committee resolution recommending fiscal policy restraints.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL. Passed, 318-70, with amendments this bill, H. R. 16913. pp. H3119-74

Agreed to the following amendments:

By Rep. Bow, by a vote of 99 to 87, to limit expenditures to \$6,524,470,897 except certain CCC expenditures required by law. pp. H3170-1

By Rep. Broyhill, Va., by a vote of 86 to 60, to prohibit use of these funds to pay the salary of any Federal employee convicted of inciting, promoting, or carrying on a riot, or any illegal group activity resulting in material damage to property or injury to persons. pp. H3171-3

Rejected the following amendments:

By Rep. Kyl, to limit 1969 payments under the Cropland Adjustment Program to \$55,500,000. p. H3150

By Rep. Findley, by a vote of 79 to 129, to limit payments under the various ASCS programs to not more than \$10,000 for each recipient. pp. H3151-68

By Rep. Matsunaga, to exempt sugar payments from the Findley amendment. pp. H3167-8

By Rep. Broyhill, by a vote of 37 to 72, a more comprehensive version of his anti-riot amendment which was later agreed to. pp. H3168-70

2. GRAIN STANDARDS. The Agriculture Committee reported with amendment H. R. 15794, to revise the Grain Standards Act (H. Rept. 1344). p. H3213

3. EMERGENCY LOANS. The Agriculture Committee reported without amendment H. J. Res. 1227, to authorize the temporary funding of the emergency credit revolving fund (H. Rept. 1345). p. H3213

4. MANPOWER. Both Houses received the President's annual report on the manpower program (H. Doc. 302). pp. H3118-9, S4691

5. EDUCATION. Agreed to a resolution for consideration of H. R. 16729, to amend legislation regarding higher education. pp. H3174-7

6. ECONOMIC SITUATION. Rep. Patman inserted and commended an article criticizing the Federal Reserve Chairman's recent statement about the economic situation. pp. H3209-10

7. EXPORT-IMPORT BANK. Received from the Comptroller General a report on the audit of the Export-Import Bank (H. Doc. 303). p. H3213

8. BUILDINGS. Received from the State Department a proposed bill to authorize additional appropriations for foreign buildings; to Foreign Affairs Committee. p. H3213

Received from the Labor Department a proposed bill to apply prevailing wage protection in accordance with the Davis-Bacon Act to construction or reconstruction of buildings to be leased for public purposes; to Public Works Committee. p. H3213

9. STATION TRANSFERS. Received from the Comptroller General a report on administration of allowances for Federal employees upon permanent change of official station. p. H3213

10. LEGISLATIVE PROGRAM. Rep. Albert announced that the higher-education and NASA-authorization bills will be considered today, May 2. p. H3118

U.S. GRAIN STANDARDS ACT

MAY 1, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POAGE, from the Committee on Agriculture,
submitted the following

REPORT

[To accompany H.R. 15794]

The Committee on Agriculture, to whom was referred the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendments are as follows:

Page 10, line 15, starting after the word "into", strike out the remainder of that sentence on lines 15 through 8, and insert in lieu thereof the following: "the United States Treasury as miscellaneous receipts."

Page 12, line 6, strike the word "or".

Page 13, line 18, strike out the word "committee" on line 18, and insert in lieu thereof the words "been convicted of".

Page 13, line 19, strike out the words "repeated or flagrant".

Page 13, line 19, strike out the numeral "14" and insert in lieu thereof the numeral "13".

Page 16, lines 24 and 25, strike both of such lines in their entirety and insert in lieu thereof the following: "including but not limited to deceptive loading, handling, or sampling of grain, or submitting grain for official".

Page 18, line 7, delete the word "and" and insert in lieu thereof the word "an".

Page 22, line 8, strike the numeral "15" and insert in lieu thereof the numeral "14".

Page 24, line 7, after the word "Act", insert a period and strike the remainder of line and all of lines 8 and 9.

STATEMENT

The action of the committee rewrites and modernizes the Grain Standards Act of 1916. Unless modified by the Secretary of Agriculture present U.S. standards for grain would be continued. There are, however, several basic changes from the present law.

(1) Permissive (i.e., voluntary) grading on grain shipped in commerce within the United States would be allowed. As in the past, mandatory inspection of all grain shipped to a point outside of the United States is required.

(2) The use of modern mechanical and electronic grain-sampling equipment would be permitted.

(3) There would be a revision of licensing producers under this act. Persons qualifying to be grain inspectors would be licensed by the Secretary for 3-year renewable periods.

(4) Additional enforcement provisions authorizing the Secretary refuse or renew licenses to have access to certain records, and to refuse to provide grain inspection under certain circumstances are also provided.

(5) Inspection by submitted samples would be permitted of grain in commerce within the United States and Canada.

The committee bill is a modification of an administration proposal. Major changes made by the committee include the deletion of authority for cooperative agreements between the USDA and State or private agencies, limitation of the recordkeeping requirements for inspection service users, application of appeal procedures under the Administrative Practices Act (APA) to certain cases related to domestic commerce in grain, addition of a requirement that domestic inspection services may be denied only after a conviction of a violation of a prohibited act, as opposed to simply violation alone, and maintenance of the appropriation process of financing the program.

The main thrust of the legislation is to bring the law up to date with the many changes that have occurred in the grain business during the past 50 years. At the same time it will permit maximum utilization of facilities and equipment with a minimum of costs, delay and inconvenience, and not diminish quality standards of grain in either domestic or foreign commerce.

CONSTRUCTION AND INTENT

The subcommittee made several amendments to the bill originally proposed and submitted H.R. 15794 as a clean bill. In the bill originally offered, there was a section providing for cooperative agreements between the Secretary and State or other inspection agencies. The committee felt that such a provision would have unnecessarily changed well-established practices which have given rise to no serious difficulty. The powers of the Secretary would have been so great over the inspection agencies as to have provided for unilateral termination of the agreement.

The committee felt this unwise and unsound in light of past experience. As amended, the bill would permit informal cooperation as has been the custom.

Further, to preserve the congressional control in the funding process the committee amended a section providing for deposits of fees and

sample sale proceeding into a revolving fund so that all such moneys would be deposited in the Treasury as miscellaneous receipts.

Refusal of inspection services was originally possible upon the determination that an individual or business entity had been committed of any repeated or flagrant violations of the acts prohibited. The committee felt that no immediate danger of serious bodily harm exists in this area of commerce as might be present in others. Inspection and grading of grain is a service to facilitate trading in grain in an orderly manner. As amended, the bill requires conviction of a violation as a prerequisite to refusal of inspection service.

The committee intends that this act shall in no way invalidate existing State warehouse or other laws not in conflict with the act. It has so provided in section 18. No impairment or hindrances by the States, or any subdivisions thereof, is expected and laws which impose additional requirements, standards, or inspection are considered by the committee as conflicting with the purposes of the act.

Concern has been expressed that the second part of the proviso in section 6(a) could lead to the widespread practice of offering wheat, in particular, for sale on the basis of other than official grade designations. If carried to the extreme, it is argued that such a practice would lead to disorder in wheat marketing.

The purpose of the U.S. Grain Standards Act is to meet the legitimate needs of producers, the grain yards, and others having an interest in grains. To that end, it is the stated objective of H.R. 15794 to insure "that grain may be marketed in an orderly manner and that trading in grain may be facilitated."

Should this objective not be met, the Department of Agriculture should so inform the committee.

BRIEF SUMMARY

H.R. 15794 would continue the present U.S. standards for grain, improve the national grain inspection system by authorizing additional inspection services under the act, eliminate certain requirements which appear to be a burden on interstate commerce and which are apparently no longer needed by the commercial grain trade, strengthen the requirements for export grain, and strengthen the prohibitions to further protect the integrity of the national grain inspection system. The bill would authorize the establishment of national standards similar to those established under the present act and would authorize the utilization of additional criteria in the standards for measuring characteristics of grain.

In brief, the bill:

1. Declares that it shall be the policy of the Congress to promote and protect interstate and foreign commerce in grain by providing for official U.S. grain standards, promoting the uniform application thereof by official inspection personnel, and providing for a national grain inspection system.

2. Effects a slight change in some definitions and adds definitions for 17 other terms that are not defined at present.

3. Continues the Secretary's authority to establish official grain standards and provides that interested persons shall be given opportunity to comment on proposed changes in the official grain standards, and provides that interested persons shall be given opportunity to comment on proposed changes in the official grain standards.

4. Provides that changes in the official grain standards shall not become effective less than 1 calendar year after adoption, except when it is found that the public health, interest, or safety requires that they become effective sooner.

5. Provides that all shipments of export grain, sold or offered or consigned for sale by grade, shall be officially inspected for grade and authorizes the Secretary to waive the requirement by class of shipment.

6. Provides that samples for the required official inspections must be taken as the grain is being loaded aboard, or while in the final export carrier.

7. Continues and makes more comprehensive the requirement that all grade representations with respect to export grain shall be in terms of official grade designations.

8. Prohibits describing export grain by any description that is false or misleading.

9. Specifically authorizes the Secretary to cause the official inspection of grain that is required to be inspected.

10. Authorizes official inspection, upon request of any interested person, with respect to any grain within or outside the United States.

11. Provides authorization to obtain and dispose of official samples as Federal property without regard to the Federal Property and Administrative Services Act.

12. Authorizes the issuance of licenses to competent individuals employed by an official inspection agency.

13. Provides that all classes of licenses shall terminate every 3 years.

14. Provides for examinations and reexaminations of any applicant for licenses, licensees, or employees of the Department.

15. Authorizes refusal to provide inspection services with respect to any person because of conviction.

16. Provides that before inspection is refused with respect to any grain required to be inspected under the act, an opportunity for a hearing shall be afforded the applicant.

17. Continues and makes more comprehensive the conflict-of-interest provisions with respect to licensees and employees of the Department.

18. Provides that shippers of export grain and applicants for inspection of any grain shall maintain records for 2 years with respect to the shipment and merchandising of their grain.

19. Continues and makes more comprehensive the list of prohibited acts subject to criminal penalty.

20. Provides for the issuance of warning letters for minor violations.

21. Provides that no State or subdivision may require inspection or description under any standards as a condition of shipment or sale of grain in interstate or foreign commerce.

Under the proposed changes, the present standards would be continued until modified. Present licenses would be continued until canceled or suspended upon request, or suspended or revoked for cause, or terminated automatically under the act.

Official and unofficial grades could be used in domestic commerce with or without official inspection (except official grades could be used on containers only if the grain was officially inspected). Trade rules and regulations would be needed to implement the inspection provisions in domestic commerce and the use of official and unofficial grades in domestic commerce.

Original inspections would be performed by Federal employees only where the services were needed and were not otherwise available. The costs of standardization work and similar activities of general public benefit and the costs of supervising the official inspections by licensees and administering the cooperative agreements would be borne by appropriations.

HEARINGS

The Livestock and Grains Subcommittee held open hearings on H.R. 2121 and H.R. 11162 on September 12, 13, and 14 of 1967. A second series of hearings before the subcommittee were held on November 6, 7, and 9, 1967. After executive hearings, H.R. 11162 was ordered reported to the full committee as amended. A clean bill, H.R. 15794 was introduced and considered.

COST

The Department of Agriculture has advised the subcommittee that total costs in appropriations annually will be \$2.9 million.

ADMINISTRATIVE POSITION

A brief bill to permit submitted samples in grain inspection, H.R. 2121, spurred recommendation of broad amendments to the U.S. Grain Standards Act of 1916 by the Department of Agriculture in the form of H.R. 11162. It was submitted June 20, 1967, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 20, 1967.

Hon. JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is enclosed a proposed bill to modernize the U.S. Grain Standards Act, as amended (7 U.S.C. 71-87).

When enacted in 1916, the act eliminated the confusion resulting from the use of many different sets of grain standards applied by many different grain inspection organizations without national coordination and supervision. The act, in general, provided for the establishment of official U.S. grain standards of quality and condition, required that grain sold by grade and shipped in interstate or foreign commerce be sold by an official grade fixed in such standards, prohibited description of grain shipped in such commerce as being of any grade other than one fixed for such grade in the standards, required that grain sold by grade and shipped in interstate or foreign commerce from or to a place where a licensed inspector was located be inspected and graded by a licensed inspector, provided for the licensing of grain inspectors to inspect and certify the grade of grain for shipment in interstate or foreign commerce, provided administrative sanctions for selling grain in interstate or foreign commerce under a false or misleading name or description and similar offenses, and provided criminal penalties for knowingly grading grain improperly or issuing false certificates of grade and certain other offenses. The act was amended in 1956 to provide criminal penalties for knowingly sampling grain improperly or knowingly or willfully causing or attempting to cause the issuance of false or incorrect certificates of grade by deceptive loading, handling, or sampling of grain, or by any other means.

The proposed bill would, in general, continue the present U.S. standards for grain, improve the national grain inspection system by authorizing additional inspection services under the act, eliminate certain requirements which appear to be a burden on interstate commerce and which are apparently no longer needed by the commercial grain trade, strengthen the requirements for export grain, make certain activities self-funding, provide for entering into cooperative agreements and contracts with official inspection agencies and others, and strengthen the prohibitions to further protect the integrity of the national grain inspection system.

The bill would authorize the establishment of national standards similar to those established under the present act, and would authorize the utilization of additional criteria in the standards for measuring characteristics of grain. The standards now established would be continued in effect under the amended act unless modified by the Secretary.

Since the act was passed in 1916, grain merchandising practices have changed greatly. Domestic traders are more knowledgeable and specification buying is more common. As a result, reference to official grades and official inspection is not desired in many of today's commercial transactions in domestic commerce. There is, therefore, no logical justification for continuing the requirement that grain sold by grade in domestic commerce be sold only by an official grade and be officially inspected. The needs of the trade, rather than Federal law, should determine when official grain grades and inspection are used for such commerce. This is now true for rice, beans, eggs, dairy products, fruits, vegetables, and most other agricultural commodities.

Since the act was passed, grain transportation methods have also changed greatly. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade even though official inspection of much of such grain is technically required by the act. To provide official inspection for trucklot grain would require stationing official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandising the grain and would apparently serve no useful purpose to the trade. Furthermore, it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under special point-to-point rates. It is also discriminatory to require the official inspection of grain shipped from or to a place where a licensed inspector is located and not require the official inspection of grain shipped from or to other points. Therefore, the inspection of grain in domestic commerce should be entirely on a permissive or voluntary basis in accordance with the needs of the trade.

Accordingly, the proposed bill would not require the use of official grades or official inspection for grain in domestic commerce, although

the bill would authorize the inspection of such grain, as well as other grain, upon request of interested persons.

Since 1916, the exportation of U.S. grain has shown a substantial increase. Much of our grain production is now shipped to foreign markets. Because of the importance of grain exports to the economy of the United States, because of the complexities of international trading, and because many foreign buyers rely solely on the U.S. grain standards for expressing their quality needs, export grain that is sold, or offered or consigned for sale, by grade, should be required to be officially inspected at the time the grain is loaded in the export carrier. Accordingly, the proposed bill would require that such export grain be officially inspected at the time of loading and that the inspection certificates be forwarded promptly to the buyers in order to facilitate international trade. It would also require the use of official grade designations in describing the grade of grain in connection with its sale for shipment from the United States. These requirements are not intended to impose an unreasonable restriction on international trade.

The proposed bill would restrict the licensing of personnel to perform official sampling or other inspection functions to individuals employed or operating independently under a cooperative agreement between the Secretary and State or other inspection agencies or persons, or operating under a contract with this Department for the performance of functions such as sampling. To avoid undesirable competition between inspection agencies, not more than one cooperative agreement would be effective at any one time in a city, town, or other area covered by any cooperative agreement. In areas where grain inspection was needed and not otherwise available from State or other inspection agencies or persons under cooperative agreements, the service would, when practical, be performed by Federal employees and contract licensees. Licenses now in effect or issued under the amended provisions of the act would terminate every 3 years at times fixed by regulation of the Secretary.

Provision is made in the bill for refusal of renewal, and for suspension or revocation, of licenses for specified causes after the licensee is afforded opportunity to present his views. Provision is also made for refusal to provide official inspection service under certain circumstances, including opportunity for a formal hearing under the administrative procedure provisions in 5 U.S.C. 556 and 557 in the case of inspection service required under the act, and opportunity to present views in other cases. The provisions for presentation of views contemplate informal procedures, not subject to 5 U.S.C. 556 and 557, which could vary, depending upon the type of action under consideration and the reason therefor. For example, in a proceeding to refuse the renewal of an inspector's license on grounds of incompetency, based on the failure of the inspector to pass an examination under subsection 9(c) of the bill, the procedure would consist of notice of such failure and of the proposed action and an opportunity for the inspector to state his views briefly in writing. More extensive procedures, including oral hearing, would be provided when deemed necessary in other types of cases, such as proceedings for denial of permissive or voluntary inspection service.

The bill also would close several loopholes in the regulatory features of the present act to further protect the integrity of the grain-inspection system; for example, it contains various new prohibitions, including a prohibition against knowingly making false representations that

grain has been inspected under the act. The use of an official grade designation, such as U.S. No. 1 Durum wheat, would not in itself be deemed to constitute a representation that grain has been officially inspected, within this prohibition. However, the knowing use of an official grade designation on a container of grain would be prohibited by another provision of the bill unless the grain in the container was officially inspected as required by the bill.

The bill would provide for issuance of rules and regulations to effectuate the purposes of the act. It is contemplated that inspection procedures and inspection equipment would be prescribed by the Secretary to achieve uniform inspection results.

The bill would have no adverse effect on operations under the Commodity Exchange Act or the United States Warehouse Act, or on the uniform grain storage agreements under the Commodity Credit Corporation price-support programs. Official inspection under the official standards could be required under the uniform grain storage agreements or in any commercial contract in exactly the same manner as at present. Industry and Government costs would be reduced without impairing the usefulness of the national standards or the grain-inspection system.

Under the present statute the inspection of grain by licensed grain inspectors has been financed by fees charged by such licensees to the user of the service. Annual appropriations have been provided to cover the cost of the Federal activities under the act with the exception of the cost of overtime, night, and holiday work which was made self-funding in 1958 by an amendment of section 6 of the act. Also the cost of appeal inspections has been borne by the users of the service.

In accordance with the policy of the administration of charging users for special benefit services, the proposed bill authorizes the collection of reasonable fees to cover the estimated total costs of official inspection services if the inspection is performed by employees of the Department or by contract licensees. It is contemplated that the fees would be reasonable and equal as nearly as practicable to the costs of furnishing the services, including the cost of overtime, night, and holiday work (after taking into consideration any proceeds from the sale of samples). No provision is made for the Department to share in the fees collected by licensed inspectors for inspections performed by them under cooperative agreements.

Based on present workload estimates, fees collected from appeal inspection services performed by employees of the Department and money obtained from the sale of surplus Federal samples of grain will amount to about \$782,000 in fiscal year 1967. Of this amount, \$682,000 is to be deposited into miscellaneous receipts in the Treasury and \$100,000 deposited as a reimbursement to the appropriation. Under the proposed bill, if the amount of grain inspected should continue at its present level, this total revenue of approximately \$782,000 would be deposited in a fund which would be made directly available for financing these "special benefit" services. All fees collected for other inspections performed by Department employees or contract licensees under the bill would also be deposited in such fund. A net cost to the Government of about \$2.2 million would be financed from appropriated funds. Reductions in Federal employment would occur to the extent that more effective inspection arrangements can be adopted or that the volume of inspected grain declines under a voluntary domestic program.

A summary of the proposed changes is also enclosed for your convenience.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

The following report commenting favorably on H.R. 11162 was received from the Interstate Commerce Commission on November 8, 1967:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 8, 1967.

HON. GRAHAM B. PURCELL,
Chairman, Subcommittee on Livestock and Grains, House of Representatives, Washington, D.C.

DEAR CHAIRMAN PURCELL: This responds to your request for the comments of the Commission on H.R. 11162, a bill, to provide for U.S. standards and a national inspection system for grain and for other purposes. This matter has been referred to our Committee on Legislation and, on its behalf, I am authorized to submit the following comments.

It is our understanding that the general effect of this legislation would be to change the present provisions of the U.S. Grain Standards Act so as to make the official inspection of most grain by the Department of Agriculture permissive rather than mandatory. Mandatory official inspection would be retained only on certain grain exported from the United States.

While we have no specific comments to offer on the specific provisions of this bill, we believe that enactment of legislation of this type would contribute materially to improving the efficient utilization of railroad freight cars. For some time, the Commission has been investigating various aspects of the railroad freight car problem in an effort, among other things, to determine what steps should be taken to obtain improved service and more efficient use of the carriers equipment. Our field investigations over the years have indicated considerable car delays in the holding of grain for inspection. We have also found that grain inspection facilities are nowhere near adequate to meet peak receipts resulting in many cars being held short of terminals awaiting placement on inspection tracks.

In its report in Ex Parte 252, Incentive Per Diem Charges, 332 I.C.C. 11, decided October 3, 1967, the Commission, in discussing developments in the area of better equipment utilization stated that, "Proposed changes in laws relating to the inspection of grain and the development of more rapid inspection techniques also signal improvements in freight car utilization," 332 I.C.C. at pp. 18-19.

For the information of the subcommittee, we have enclosed for inclusion in the record a copy of some remarks prepared by former Chairman Bush which discuss the beneficial effects of this legislation on the railroad freight car problem in greater detail.

Since enactment of this bill would give wide latitude to the Secretary of Agriculture to develop and promulgate new methods for the inspection of grain, it could substantially reduce the number of car days

lost by cars of grain held for inspection under present procedures. In turn, this would result in improved freight car utilization and make many more cars available to the shipping public. For these reasons, we favor the enactment of H.R. 11162.

Sincerely yours,

WILLIAM H. TUCKER.
PAUL J. TIERNEY.
LAURENCE K. WALRATH.
WILLIAM H. TUCKER,
Chairman, Committee on Legislation.

SOME OBSERVATIONS REGARDING THE RAIL CAR "SHORTAGE"

(By John W. Bush, Commissioner, Interstate Commerce Commission)

The term "rail car shortage," more often heard as "boxcar shortage" is not really a correct terminology. However, no one has yet come up with an acceptable correction or improvement.

There is a shortage, but better utilization coupled with normal car building and replacement could eliminate a very large percentage of the shortage. I also believe car service orders helped last year.

Already, computerized tracing and recording of car movements is going a long way toward better utilization of cars. And there is still much more improvement to be expected in this area. I have often heard the statement that rail cars are only moving on line about 10 percent of the time.

Here are only a few of the utilization factors and problems. These practices, and others, can be brought sharply into focus by computerized tracing and recording of car movements.

(1) Old practices of overordering by shippers (like padding a budget to offset anticipated cuts) contribute to lost car days.

(2) Circuitous routing, to give the shipper's sales department extra days in which to actually find a sale for the carload (as in the lumber industry) is sometimes another contributor to the overall shortage of boxcars.

(3) Shippers sometimes use boxcars as warehouse or storage space for a few days when demurrage is cheaper than early unloading.

(4) Carriers are naturally reluctant to release an empty car if they think they might send it out full within a few days.

GRAIN INSPECTION

I believe that the greatest single move that could be made to improve car utilization would be to revise our grain sampling procedures and practices.

At the present time it is the practice to set out cars for grain inspection. The inspecting is done with a long probe manipulated by a U.S. grain inspector. The grade obtained or sample is used in the buying and selling of grains for either domestic or export commitments. The grading is done pursuant to regulations and specifications set up by the USDA under the Grain Standards Act. There is also State inspection of grain.

A number of western grain railroads recently undertook to obtain some relief when it was called to their attention that there was a possibility of changing the Illinois regulations and also the possibility of eliminating the reinspection of grain in Minnesota. A check on the North Western indicated that cars were being held for inspection 4 to 5 days, on an average, in the nonrush season, and that in the height of the heavy movement, when grain inspection tracks become plugged, the cars might lose as much as 15 to 20 days. It is to be noted that this is on a single inspection and a car may be inspected as much as three or four times. Several other northern railways obtained similar results.

The Rock Island has just completed a study over the southern part of its system, which shows an average loss of approximately 4 days on its grain shipments due to inspection. Checks were made for this at Kansas City, Amarillo, Fort Worth, and Belleville, Kans. There is always a loss of 1 day and sometimes it runs as high as 12 days, although the average was slightly higher than 4, as indicated.

If we were to take all of the cars in grain service and extend this loss of car-days against the cars of the entire fleet, it can readily be seen that the elimination of inspection on hold tracks would materially increase car utilization. The need is obvious, therefore, for new laws and regulations covering inspection. The U.S. Grain Standards Act was passed in 1916.

The new machine-sampling devices appear not only to give a much superior sample but also to point the way to a new sampling system which would do away with the necessity for sampling grain in the car.

The grain industry has given a great deal of attention to the new method of sampling, as has the USDA. After all, a probed sample merely gives a cupful of grain out of various parts of the car which really isn't a representative sample of the entire car. The new machine sampling takes a sample, at set intervals, in either the in-run spout or the out-run belt when the grain is loaded or unloaded. By shifting to machine sampling, on the in-run spout, the grain railroads would be entirely relieved of in-car sampling and would immediately obtain a minimum of 4 additional car-days per shipment on their entire fleet in use. In this regard the western roads loaded 1,759,907 cars of grain and grain products in 1965.

It has been interesting to note that in addition to carriers' support of the new method of sampling, in order to relieve themselves of the burden of supplying a storage bin in transit while the sampling takes place, the shippers also have a very real interest. Recently 33 relatively small elevator operators met in northwestern Iowa. These men were quite anxious to see spout sampling become accepted, as it would materially increase the grade and, consequently, the sale price of their grain when moved in a covered hopper. They had found by experience that corn, which they were certain would grade 3 or better (the lower the number the better the grade), was showing up when sampled by probe as no better than six FM. To check this, they had installed a mechanical sampler at origin and made belt run checks at destination. This had shown grain going into the covered hopper, via the mechanical sampler, as three or better, whereas it graded around six when an official sample was taken by the probe method. They explained that this disparity was due to the fact that when grain is loaded through the center hatches of a covered hopper, it forms a cone underneath

the spout, with the heavier whole grain going to the outside of the cone and the light material, broken grain, etc., staying in the center of the cone. Consequently, when the probe is pushed down through the same center hatches it gets an unfair sample, whereas the random sample of the machine-sampling device in the spout, or out-run belt, was giving a true sample of the entire car. Accordingly, these shippers were anxious to see a change in the laws and regulations which would permit submitted samples obtained by mechanical sampling. These shippers have a very real financial stake in obtaining the newly proposed type of sampling, and the railroads want it to relieve them of the burdensome sampling on hold tracks through the old, and present, probing method.

In March of this year the Grain & Feed Dealers National Association held its national convention. This association is probably more representative of the grain trade, with the exception of millers, than any other single grain organization. The association has gone on record as favoring mechanical sampling and a submitted sample.

Two bills were submitted last session which bear on this subject. They are resubmitted this year as S. 272 and H.R. 11162. S. 272 is very short and makes submitted samples permissive. H.R. 11162 is much longer, covering not only submitted samples, but many other areas as well. I am informed that the grain trade feels that S. 272 does not go far enough and that the House bill goes too far. However, it now seems to be generally expected that the USDA will come out with a revised bill which will eliminate the objections that the grain trade had to last year's House bill and will supply the deficiencies of S. 272 in their eyes. Accordingly, I hope that a bill may shortly be available which would have the effect of relieving the railroads of the burdensome sampling, as now conducted, and that can receive the support of the grain trade and USDA as well, although for entirely different reasons. This does not mean, of course, that the grain trade is not as desirous as we all are of improving car utilization, for I need not add that the grain trade has been one of the vociferous segments of the shipping community in complaining about car shortages. Of course, anything that makes a significant contribution to the effective car fleet cannot help but redound to the benefit of all shippers. The shift in the method of sampling grain appears to be one of the most immediate methods of obtaining a significant improvement in car utilization and, in effect, an increase of cars available for loading.

One company, International Stanley Corp., in cooperation with several railroads traced the movement of almost 10,000 cars through eight grain inspection terminals and found that the average delay on grain cars stopped or held for official inspection varies from a low of 1.7 days in one terminal to over 10 days in several other terminals. Their report says: "Based on approximately 2 million carloads of grain originating each year, this represents a waste of over 10 million car-days, or the equivalent of adding 27,000 boxcars to the railroads car fleet per year. This amount of cars would handle between 400,000 and 500,000 carloads of grain in a year's time."

Additional studies to document the loss of car-days through sampling are being made and will certainly be presented at the hearings on the new bills.

APPENDIX A

Here, I am informed, is a summary of how several different factors pertaining to grain inspection can contribute so very materially to the grain car shortage.

1. To begin with, a grain shipper is entitled to 2 free days and one diversion at the first point of inspection, e.g., Lincoln, Nebr.

2. Then if the billing was to Omaha they would have an additional 2 free days of inspection time. (Shipper can call for—and get—reinspection at several points if he wishes. The purpose may be the hope of getting a higher grading—or just to use the boxcar for warehousing hoping for an upturn in the market.)

3. Free time starts at 7 a.m. Therefore, if the car arrives at 8 a.m. there are 23 additional hours before 7 a.m. the next day at which time free time, as stated above, starts.

4. Suppose, then, the car arrives at 8 a.m. on Friday. That would mean the balance of Friday would not count. Then Saturday and Sunday (weekend days) also would not count. Therefore, the 2 days free time would start at 7 a.m. Monday. After 7 a.m. Wednesday (the end of the 2 days free time) the paperwork and switching or “shipout” of the car would actually take place. Therefore, for this one inspection a car which arrived at 8 a.m. Friday might not move until the following Wednesday or conceivably Thursday morning just counting free time.

It must also be realized that at harvest time there not only is a shortage of cars but there is a very great shortage of inspectors and trackage. If a terminal receives an influx of 1,000 or 1,500 cars, which they probably could not handle on their terminal tracks, they would have to “stack” cars at “country-hold” points some miles away from the terminal itself.

If the harvest begins in Texas in May, the most critical time really begins about the first of June for the harvest moves from Texas up through Oklahoma, Kansas, and into the Dakotas, normally by the middle of July. Wheat, corn, barley, and Durum all must be harvested and inspected. Milo (grain sorghum used for cattle feed) must be harvested and shipped but not inspected.

It is my understanding that corn and Malting barley, from the time standpoint, are the most critical of the grains to be inspected. This, I understand, is due to greater spoilage potential.

The original bill, H.R. 11162 was discussed by the Department of Agriculture representatives in hearings before the subcommittee on September 12, 1967. Following is the statement of George R. Grange, Deputy Administrator for Marketing Services, Consumer and Marketing Service, U.S. Department of Agriculture:

STATEMENT OF GEORGE R. GRANGE, DEPUTY ADMINISTRATOR FOR MARKETING SERVICES, CONSUMER AND MARKETING SERVICE, ACCOMPANIED BY CLYVE JACKSON, DEPUTY DIRECTOR, GRAIN DIVISION, CONSUMER AND MARKETING SERVICE; HOWARD H. WOODWORTH, CHIEF, GRAIN INSPECTION BRANCH; AND MRS. LOTUS (THERKELSEN) PROKOP, ATTORNEY, OFFICE OF THE GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

Mr. GRANGE. In addition to Mr. Jackson, Mr. Woodworth and Mrs. Prokop are with me, Mr. Chairman.

Mr. PURCELL. Proceed.

Mr. GRANGE. Thank you, Mr. Chairman.

We welcome very much this opportunity to appear before the subcommittee. We have a statement which I would like to present which we hope will answer a number of the questions that have already been raised and will explain as fully and clearly as we can the reasons for the Department and the grain trade's high interest in this bill and also will explain many, or most if not all, of the important features of the proposal.

The basic purpose of H.R. 11162 is to amend the U.S. Grain Standards Act in a way that will enable the Department to keep its programs and services attuned to the changes that have taken place in transporting, marketing, and merchandising grain and its products since the original act was passed more than 50 years ago.

As the Committee on Agriculture knows, the Department has sponsored several bills this year to modernize legislative authorities relating to the marketing of agricultural products. The dynamic changes taking place in the marketing system for food and fiber have affected the size and concentration of firms and the way in which they do business. The Department has supported these legislative changes so it can keep its programs and services updated and most useful to producers, marketers, and users.

For example, the Meat Inspection Act, passed more than 60 years ago, has served us well over the years. However, advancing technology, rapid transportation and communication, intensified marketing, new food preservation methods, and significant changes in the structure of that industry dramatized the need to update that act.

Likewise, the Packers and Stockyards Act was the basis for protecting fair and effective competition in the livestock and meat industry for over 40 years. However, widespread and dramatic changes in the structure and practices of those industries created the need for modifying that statute to assure it continues to function effectively in the public interest.

The Department provides a number of marketing services that are essential to the existence and operation of an efficient, equitable, and competitive marketing system for grain and its products. The marketing of grain and its products also has changed significantly as a result of larger farms, technological advances in the harvesting of grains,

improved transportation, changes in marketing methods and changing consumer demands. In recognition of this, and as part of a broader departmental effort to keep pace with change, we are happy to be here today to support these changes to the act. We feel they will enable us to provide more effective service to all segments of the marketing system.

The U.S. Grain Standards Act provides for the establishment of grade standards and for inspection of grain moving in interstate and foreign commerce. The grains that are now covered under the act are wheat, corn, barley, oats, rye, grain sorghum, flaxseed, soybeans, and mixed grain.

About 3.2 million primary inspections were performed under the act in fiscal year 1967 by about 790 inspectors licensed by the Department, and by about 1,500 samplers and laboratory technicians. The grain trade paid fees of about \$11 million for this service to the designated inspection agencies.

Some 300 Federal graders at 40 field stations supervised the primary inspections and performed 28,000 appeal inspections.

An annual appropriation of \$2.9 million has been budgeted for 1968, the same amount as was appropriated in 1967, to cover the Federal cost of administration of the act. Administration of the act entails the supervision of licensed inspectors, the development and maintenance of standards and the performance of appeal inspections. About \$113,000 was collected last year to cover the cost of overtime and holiday work on appeal inspections and the Department is authorized to retain this money to offset this additional cost.

Fees for appeal inspections and proceeds from the sale of Federal samples, which amounted to about \$790,000 last year, were deposited into miscellaneous receipts of the U.S. Treasury in accordance with provisions of the act.

The act was passed in 1916 to meet the need for national standards and for a national inspection system for grain. The act has been amended only three times since it was enacted: in 1940 to include soybeans as a grain; in 1956 to prohibit certain deceptive loading, handling, and sampling practices; and in 1958 to authorize the collection and retention of fees for overtime work on appeal inspections.

The Grain Standards Act of 1916, was based on the concept of requiring the use of Federal grades and Federal supervision of inspection at the historic grain terminal markets. At that time, in 1916, the interstate movement of grain was by barge or rail and practically all of it went to or through one of the major terminal markets such as Chicago, Minneapolis, or Kansas City. Therefore, by outlawing the use of local grades at these terminal markets for interstate and foreign shipment and by making it mandatory that such shipments sold by grade be graded by a federally licensed inspector, the purpose was accomplished of obtaining national uniformity in grade standards and in inspection procedures. Senator McCumber of North Dakota, who introduced the first bill

pertaining to Federal grain standards and inspection, stated at a 1908 Senate hearing:

“All of the grains in the United States are now sold at the great terminal markets by grades, and very little sold by actual inspection. The grades are fixed by the boards of trade or chamber of commerce at these great terminals or by State warehouse commissions. In every instance the grades are so made and changes from year to year and time to time that the benefits will inure mostly to the terminal purchasers, the men holding or owning the terminal elevators.”

Since 1916, radical changes have taken place in transportation methods, merchandising methods and inspection practices. Because of these changes, and because of problems encountered in administering the law, it is apparent that some provisions of the 1916 act are now obsolete. Since a number of changes are essential, we, therefore, recommend that a complete revision and modernization of the act be undertaken.

As you stated in your opening remarks, Mr. Chairman, to our knowledge there is no disagreement that there are certain features of the act that are obsolete and are archaic. There are differences of view on a number of these as to the best method of making a desired change but there does seem to be a practically unanimous view that certainly on some of the provisions that they are just completely out of date.

The present act requires that grain which (1) is sold, offered for sale, or consigned for sale by grade prior to shipment, and (2) is shipped or delivered for shipment in interstate commerce from or to a place where a licensed grain inspector is located, shall be inspected by a licensed grain inspector either at origin, en route, or at destination. Since the act was passed in 1916, grain merchandising practices have changed greatly. Domestic traders are knowledgeable and specification buying is common. Buyers and sellers can make decisions without official inspection in many of today's commercial transactions in domestic commerce.

The needs of the trade, rather than Federal law, should determine when official inspection for grade is needed. This is now true for rice, cotton, meat, dairy products, eggs, fruits, vegetables, and most other agricultural commodities. The Federal-State inspection service inspects and certifies several million carlots and trucklots of these other commodities each year—but only when the producer, shipper, or buyer requests such inspection.

Grain transportation methods have also changed greatly in the past half century. About one-third of the grain now shipped in interstate commerce moves by truck. An ever-increasing percentage is being shipped by rail under special tariffs which eliminate stopover privileges. Official inspection of much of the trucklot grain is apparently not needed by the trade. To provide official inspection for trucklot grain at the 190 established inspection points would require either (1) official inspection service on a 7-day, 24-hour basis, particularly during the harvest season, or (2) would

require that trucks be prohibited from moving from or to these established points except during official hours when inspection service would be available. An example of the kind of arrangement needed would be to set up truck inspection stations at strategic locations in and around the 190 established inspection points. These could operate similar to truck weighing stations and all trucks would be required to stop at them for sampling and inspecting their load of grain when entering or leaving these markets.

If the mandatory inspection provisions were universally enforced at the established points with respect to trucklot grain, it would increase the cost of merchandising the grain and would apparently serve no useful purpose to the producers, warehousemen, or end-users.

The inspection requirement for grain is illusionary, misunderstood, inflexible, discriminatory, impractical to enforce, and is a burden on interstate commerce.

We say it is illusionary as a compulsory act because only a fraction of the interstate domestic shipments of grain are covered by its provisions. We estimate that less than two-thirds of these shipments now move from or to one of the established inspection points and that about one-half of these shipments are not sold by a grade prior to shipment. Therefore, shipments to which the compulsory inspection requirement applies under the 1916 act now represent only 30 percent or so of all interstate domestic grain shipments. Of course, about one-half of the grain sold off-farm in the United States never moves across State lines in the first place, so it is readily apparent that the compulsory inspection requirement applies to only a small fragment of the grain sales in this country.

The inspection requirement is misunderstood in that few shippers have a clear understanding as to what is a "grade" and when grain is or is not subject to the inspection requirement. Sales by private grades, sales by grade—which connote quality—factors such as specifying percentage of defects, or sales by brand name are defined as sales by grade under the present act, and, therefore, subject to compulsory inspection. (There are approximately 15,000 elevators which ship grain in commercial channels. Many of the shippers do not understand the requirement.)

It is inflexible in that official inspection is required regardless of the needs or desires of the shipper-seller and the receiver-buyer. An inspection based on a submitted sample obtained by either the shipper or the buyer, for example, does not meet the inspection requirement under the existing act.

The inspection requirement is discriminatory in that shippers who do not sell by grade prior to shipment, or do not ship in interstate commerce, or do not ship from or to a place where a licensed inspector is located are not required to have their grain officially inspected; whereas, shippers who meet all of the conditions are required to have their grain officially inspected.

It is violated frequently (especially in trucklot shipments) but is impractical to enforce, in that many of the shippers and receivers of trucklot grain do not want or need official inspection; licensed inspectors are not generally available 24 hours a day, 7 days a week to cover truck movement; inspection of all trucklot grain would delay grain movement and increase merchandising costs; much of such grain is shipped by itinerant truckers who are difficult or impossible to locate; and successful prosecutions for violations of the inspection requirement are difficult when there is no showing of economic harm. At places where licensed inspectors are located, approximately 85 percent of the carlot and bargelot grain but only 35 percent of the trucklot grain is officially sampled and officially inspected. We estimate that about another 15 percent of the trucklot grain at such places is inspected on the basis of samples submitted by interested parties, and that about 50 percent of the trucklot grain at established inspection points is neither sampled nor inspected by licensed inspectors.

The inspection requirement is a burden on interstate commerce in that it results in many railcars being stopped and held for official sampling. (Official sampling is often not available at origin, and is often not practical at final destination, so the railcars must be stopped or held at some convenient point en route.) The stopping and holding of the cars increases their turnaround time and contributes to the boxcar shortage.

It makes little sense in 1967 to require compulsory grain inspection at 190 designated markets and to have inspection either permissive or unavailable at the thousands of other points in the United States from or to which grain is shipped. The established inspection points under the 1916 law are now a hodgepodge of historic grain markets plus some new ones where a chamber of commerce, grain exchange, board of trade, or some individual has requested the Department to designate their city or town as an official grain inspection point. The designated inspection agency has a franchise to perform official inspections at such point under the mandatory provisions of the act.

A good example of the archaic nature of trying to impose uniform standards by requiring compulsory inspection in the historic terminal markets is provided by the State of California. Colton, Corcoran, Imperial, Long Beach, and Los Angeles are established inspection points in southern California. Thousands of carloads and truckloads of grain annually are shipped from country elevators in the Southwest to important livestock production areas in California which not only bypass Los Angeles but also bypass other mandatory inspection points. Similar examples are provided by the fact that there are only four established inspection points in North Dakota, two in Tennessee, one in Colorado, and three in Oregon.

Another example is provided in the State of Georgia with the tremendous increase in the commercial broiler industry

over the last 20 or 25 years. The only mandatory inspection point within the State of Georgia is the city of Atlanta.

Most of the grain moving from the Midwest by truck or even by rail to the commercial broiler production areas in Georgia today is not going into or out of Atlanta, which is the only mandatory point in the entire State.

Many inspections, particularly submitted samples, are now obtained on a permissive basis. Almost 500,000 inspections by Federal licensees were performed last year on samples of grain drawn and submitted by applicants for the service. In fact, this voluntary inspection service constitutes the bulk of the grain inspection work in markets like Pasco, Wash., and Lewiston, Idaho, where the settlement between the grower and the country elevator is customarily based on the analysis of an unofficial sample drawn by the elevator and submitted to the nearest grain inspection office. In addition, permissive inspection of grain is provided by many State departments of agriculture and other licensed agencies at shipping points or markets located at or outside of the established inspection points. Kansas is a good example of this kind of operation. Many of the shipments of grain in Kansas are not in interstate commerce. However, Kansas provides grain inspection service throughout the State on a voluntary basis, which constitutes a large part of their grain inspection work.

During the last 3 years, we have discussed the more important problem areas with a number of interested groups including producers, trade organizations, grain firms, private inspection agencies, and State departments of agriculture.

This Department's proposed revision was first submitted to the 89th Congress and was introduced in the House of Representatives on August 9, 1966, as H.R. 16918. No hearings were held on the bill, but copies of the committee print containing the bill, a summary of the proposed changes, and the wording of the executive communication were made available widely to all interested parties.

During the winter of 1966-67, numerous discussions on H.R. 16918 were held with national and regional producer groups and grain trade organizations. A number of meaningful modifications were recommended which the present bill (H.R. 11162) contains.

H.R. 11162 would continue the present national grain inspection system.

Perhaps I should interject. By national we mean nationwide. I think, by some of the questions we received, some people think of national as Federal. When we use the term "national," we mean that it would continue the nationwide grain inspection system.

It would eliminate or modify certain inspections, merchandising, reporting, and licensing provisions which have been found to be impractical, undesirable, or unenforceable. It would strengthen the inspection and merchandising requirements for export grain. It would make certain Federal inspection activities self-funding. It would provide specific authority for entering into cooperative agreements and contracts with public and private inspection agencies. And, it would

strengthen the protection of inspection certificates issued under the act.

The proposed bill would not require the use of official grades or official inspection for grain in domestic commerce. It would authorize the inspection of such grain, as well as other grain, upon request of interested persons.

The bill provides that the present official grain standards would be continued until modified, and present licenses would continue to be in effect until canceled or suspended for any reason. Primary inspections would be performed by Federal employees only where inspection service by a co-operating agency was not otherwise available.

I might interject at this point, under the present setup in providing Federal inspection in Bay Como, Canada, for U.S. exports out of the St. Lawrence Waterway, we provided this service under the authority of the Agriculture Marketing Act of 1946, rather than under the present Grain Standards Act.

In updating and modifying the Grain Standards Act, it is our belief that there should be provision for Federal inspection where the license inspection would not be otherwise available in order to take care of situations like this. I would like to say categorically and emphatically, there is no desire or intention on the part of anyone in the Department of Agriculture to replace the present arrangement for licensees performing the primary service. This authorization is just to take care of this exception rather than the general rule.

The Federal cost of supervising official inspections performed by licensees would continue to be borne by appropriations, as they are under the present act. Overtime service would continue to be self-funding with all collections made available for use in financing the work. The only change in the funding arrangement would be that the Federal appeal fees (including the money we receive for sale of surplus grain samples) would be retained by the Department for the use in conducting the appeal service rather than reverting to miscellaneous receipts of the Treasury. An offsetting decrease could then be made in the Federal appropriations for administering the Grain Standards Act. Based on present workload, this decrease in the annual appropriation would be \$682,000.

Mr. Chairman, we think this would be quite a desirable change. Our appeal workload fluctuates quite significantly at times and since we are depending entirely on annual appropriations to handle the cost of the appeals, we have had to resort to emergency appropriations at times in order to do this. If the appeal fees were to be used directly for providing this service rather than reverting to miscellaneous receipts, it would make a much more effective financial arrangement that would result in no additional cost to the taxpayer.

The bill would have no adverse effect on operations under the Commodity Exchange Act, the U.S. Warehouse Act, nor on the uniform grain storage agreements under the Commodity Credit Corporation price-support programs. Official inspection under the U.S. grade standards could be required

under the uniform grain storage agreements or in any commercial contract in exactly the same manner as at present.

It is our firm belief that the inspection for grade of all shipments of grain in interstate commerce should be entirely on a voluntary basis in accordance with the needs of the shipper or buyer, except those few lots of grain which are shipped in U.S. grade-labeled containers. Federal laws and regulations as a general rule require that commodities must be officially inspected if they are shipped in containers bearing a U.S. grade label. In line with this general practice, we propose that any grain which is so labeled would have to be officially inspected.

We have considered a number of alternatives to permissive inspection but have found none which appear to be realistic or constructive. Enforcement of the present compulsory inspection at the established markets or extension of these requirements to all interstate shipments of grain does not offer an acceptable alternative course of action.

Trade rules and specifications would be used to implement permissive inspection in domestic commerce. Such rules and specifications now determine in most contracts whether inspection is to be performed and, if so, where. Under the Department's proposal, the applicant for inspection could also specify whether he wanted the inspection to be based on a sample drawn by the inspection service or on a sample drawn and submitted by someone else. Mechanical samplers could be used without any Federal restriction as long as they were acceptable to the seller and the buyer. All inspection certificates, as at present, would clearly indicate whether the inspection was based on an official sample or on a submitted sample.

Because of the complexities of international trading and because many foreign buyers rely largely on the U.S. grain standards for expressing their quality needs, export grain that is sold by grade should continue to be required to be officially inspected at the time the grain is loaded in the export carrier.

Since 1916 the exports of U.S. grain have substantially increased and much of the grain produced is now shipped to foreign markets. In calendar year 1966 over 2 billion bushels of grain were exported, which is equivalent to about 25 percent of the total production of grain in the United States.

Grain is exported in increasingly larger units, as much as about 4 million bushels in a single modern tanker. Shippers and receivers who are separated by great distances and cannot get together to discuss and agree upon quality measurements for each sale or shipment must rely upon generally known and acceptable quality standards. Grain exporters are better protected when shipping by grades and standards that are applied at the time of loading than by exporting grain on a fair-average-quality basis subject to arbitration abroad.

Almost all of the grain that is exported from the United States is sold by grade on a certificate-final basis, and almost all of it is shipped from places where licensed inspec-

tors are located. The place of shipment should not determine whether export grain needs to be officially inspected.

The bill provides that shipments of export grain that are sold, or offered, or consigned for sale by grade shall be officially inspected. There may be instances where the official inspection of certain exported shipments of grain is obviously not warranted. In such instances, a waiver of the inspection requirements should be permitted, as provided in the bill.

In addition to the above proposals, there are a number of other but less important provisions in H.R. 11162. We do not believe that it would be worthwhile to outline or describe each of these other provisions which differ from the present act. We shall be glad to answer any questions if there is a particular interest in any one of them.

Thank you, Mr. Chairman. I appreciate this opportunity to present this statement to the committee and we shall try to answer any questions or supply any additional information in which you are interested.

ANALYSIS OF PROPOSED BILL TO AMEND THE U. S. GRAIN STANDARDS ACT

(H.R. 15794, 90th Cong., second sess., as changed by the Committee on Agriculture, House of Representatives)

Section 1.—This section continues the present short title for the Act.

Section 2.—This section contains a declaration of the policy of the Congress to provide for the establishment of official U.S. standards for grain, to promote the uniform application thereof by official inspection personnel, and to provide for an official inspection system for grain. There is no policy statement in the present act.

Section 3.—This section defines 21 terms used in the bill, two of which are defined in the present act.

Paragraph (a) defines "Secretary" to mean the Secretary of Agriculture or his delegates in accordance with Reorganization Plan No. 2 of 1953.

Paragraph (b) identifies the "Department of Agriculture" as the U.S. Department of Agriculture.

Paragraph (c) redefines "person" (defined in sec. 1 of the present act, 7 U.S.C. 72), to include any business entity as well as any individual, partnership, corporation, and association.

Paragraph (d) adds a definition of "United States" to mean the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia).

Paragraph (e) defines "State" to mean any State (including Puerto Rico) or territory or possession of the United States (including the District of Columbia).

Paragraph (f) redefines "interstate or foreign commerce" (now defined in sec. 1 of the act) to exclude commerce "within any Territory or District." Otherwise the definition is essentially the same as in the present act.

Paragraph (g) defines grain to include specifically corn, wheat, rye, oats, barley, flaxseed, soybeans, grain sorghum, and mixed grain, which are included in the present standards, and also any other food

or feed grains and oilseeds for which standards are established under section 4 of the proposed legislation.

Paragraph (h) defines "export grain" as grain for shipment from the United States to any place outside thereof.

Paragraph (i) defines "official inspection" to mean "the determination and the certification, by official inspection personnel, of the kind, class, quality, condition, or quantity of sacks of grain" under the standards provided for in the act, or, upon request of an applicant, other criteria approved by the Secretary. The reference to "sacks" is meant to apply only with respect to inspection for quantity, and not to limit inspections for kind, class, quality or condition to inspections of grain in sacks.

Paragraph (j) defines "official inspection personnel" to include persons licensed to perform all or specified functions involved in official inspection. This would include persons employed under a contract with the Department who are licensed by the Department to perform particular functions in connection with supervisory or appeal inspections or initial or other inspection of U.S. grain in Canadian ports.

Paragraphs (k) and (l) define "official inspection mark" and "official grade designation".

Paragraph (m) defines "official inspection agency" as the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under the act. This confirms the long established practice whereby the Secretary designates an agency or person to be responsible for providing official inspection service, within a specified area, through licensed inspectors employed by the designee.

Paragraph (n) defines "official certificate" and "official form".

Paragraph (o) defines "official sample" as one obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel.

Paragraph (p) defines "submitted sample" as, in effect, a sample other than an "official sample".

Paragraph (q) defines a "lot" of grain.

Paragraph (r) defines "interested person" as one having a contract or other financial interest in grain.

Paragraph (s) defines the verb "ship" with respect to grain, to include transportation by any person of his own grain by any means of conveyance.

Paragraph (t) defines "false", "incorrect", and "misleading".

Paragraph (u) defines "deceptive loading, handling or sampling" of grain to avoid a restrictive interpretation based on the legislative history of the present act.

Section 4.—This section would continue essentially the same authority the Secretary now has (7 U.S.C. 74) to establish, amend and revoke standards for grain. The present act refers to standards of "quality and condition" and the proposed section refers to kind and class as well, but this does not involve a substantial change since the present standards include kind and class as elements of quality and condition.

The bill would add a requirement for publishing public notice prior to the issuance, amendment or revocation of any such standards and for affording opportunity for interested persons to submit their views on the proposal. This submission would be made in writing,

except that upon request of any interested person he would have opportunity to present his views orally in an informal manner.

The present act provides for a 90-day delay in effective date of new or amended standards. The bill would provide for 1 year's delay unless the Secretary deemed that the public health, interest or safety requires that they become effective sooner.

Section 5.—This section generally requires official inspection for export shipments of grain sold or offered or consigned for sale by grade if standards have been issued under the act for such grain; and prescribes the time for taking of official samples for the purpose of such inspection. The section also requires a valid official certificate to be furnished promptly to the consignees of the grain. The Secretary would be authorized to waive any of these requirements with respect to any class of shipments when he deems it impracticable to provide inspection therefor.

At present shipments of such export grain are required (7 U.S.C. 76) to be officially inspected for grade when they are shipped from a place where a licensed inspector is located; the time of sampling is not specified; and there is no requirement that an export certificate be furnished to the consignee.

The requirement of inspection made by the present act (7 U.S.C. 76) with respect to grain shipped in interstate commerce is deleted, except as required under sections 13(a) (5) and (6).

Section 6.—This section in paragraph (a) continues and makes more comprehensive the requirement (7 U.S.C. 76) that all grade representations with respect to grain shipped in interstate or foreign commerce shall be in terms of official grade designations. However, additional information as to specified factors is permitted; and with respect to grain in interstate commerce, the description of the grain by any proprietary brand name or trademark that does not resemble an official grade designation or by use of any official grade factor designations or other factor information shall not be deemed to be a description of the grain as being of any grade.

Paragraph (b) prohibits describing export grain by any false or misleading description. Violation of this prohibition would be made a misdemeanor by section 13 of the revised legislation, instead of being subject only to publication of findings in an administrative proceeding as authorized by present provisions (7 U.S.C. 77) that would be deleted by the bill.

Section 7.—This section, in paragraph (a), specifically would authorize the Secretary to cause official inspection to be made, under the standards provided for in the act, of grain that is required to be inspected. Such authority is not specifically included in the present act (7 U.S.C. 76, 79).

Paragraph (b) would authorize the Secretary also to cause official inspection to be made upon request of interested persons with respect to any grain within the United States, or U.S. grain in Canadian ports, under the standards or under other criteria approved by the Secretary for determining the kind, class, quality, condition or quantity of, or other facts relating to, grain. This clarifies the authority to inspect U.S. grain in Canada. The authority to determine "other facts relating to grain" would include authority for inspections to determine the suitability of holds of ships or other carriers for transportation of grain.

The dispute privilege, as such, is deleted (7 U.S.C. 76, 79).

Paragraph (c) would authorize reinspections and appeal inspections and cancellation of certificates superseded by such inspections. The present act and regulations provide for reinspections and appeal inspections and provide that, after opportunity for hearing, the Secretary may publish his findings that an outstanding certificate is incorrect. (7 U.S.C. 77, 78). The bill omits the provisions for publication of such findings.

Paragraph (c) also provides authorization to dispose of official samples obtained by or for employees of the Department as Federal property without regard to the Federal Property and Administrative Services Act. No provision is made for obtaining and disposing of such samples in the present act.

Paragraph (d) provides that outstanding certificates shall be received by all officers and courts of the United States as prima facie evidence of the truth of the facts stated therein. At present, only the findings of the Secretary on Federal appeal grade certificates are required to be so accepted (7 U.S.C. 78).

Paragraph (e) authorizes the collection of inspection fees by the Secretary except when the inspection is performed by employees of an official inspection agency, and provides that such fees shall, as nearly as practicable, cover the costs of the appeal and Canadian port inspection services for which the fees are collected, including supervisory and administrative costs. It provides that such fees and proceeds from the sale of samples, shall be deposited into the U.S. Treasury as miscellaneous receipts. At present, unrefunded fees for appeal inspections and proceeds from the sale of Federal samples are deposited into miscellaneous receipts in the U.S. Treasury; and charges for overtime, night and holiday work performed on appeal inspections are deposited to the appropriation for reimbursement of the Federal employees and for related administrative costs (7 U.S.C. 78).¹

Paragraph (f) provides that not more than one inspection agency for carrying out the provisions of the section shall be operative at one time for any area. There is no such provision in the act at present but it has been the departmental policy to approve only one inspection agency at one time for any one area defined by the inspection agreement.¹

Section 8.—Paragraph (a) would authorize the Secretary to license any competent individual employed by an official inspection agency to perform official inspection functions, to authorize competent employees of the Department to perform official inspection functions involved in supervisory or appeal inspection or initial inspection of U.S. grain in Canadian ports, and to license other competent persons to perform official inspection functions under a contract with the Department.

Paragraph (a) also would prohibit the performing of official inspection functions by any persons unless licensed or authorized under the act. At present, the Secretary is authorized to issue licenses only to inspectors to inspect, grade, and certificate the grade of grain. Upon request of a State, the Secretary is required to issue licenses to State inspectors. Present licensees are not required by the act to be employed by an official inspection agency or under a contract with the Department. There is specific authority at present for performing of appeal inspections by employees of the Department, but there is no require-

¹ Inspection service for U.S. grain in Canada is now provided on a reimbursable basis under the Agricultural Marketing Act (7 U.S.C. 1621 et seq.) and the moneys collected are deposited into a trust fund.

ment in the act that the employees must be competent (7 U.S.C. 78 and 79).

Paragraph (b) provides that all classes of licenses shall terminate every 3 years. It provides further that licenses shall be suspended automatically when the licensee ceases to be employed by an official inspection agency or to operate under a contract with the Department. It also provides for the reinstating of licenses if the licensee is employed by an official inspection agency or resumes operation under a contract within 1 year of the suspension date. At present, licenses issued to inspectors do not have a termination date. Provision is made in the regulations for the termination of licenses issued to State inspectors whenever they cease to be State inspectors, and the termination of licenses issued to inspectors who are not making inspections regularly. Provision is also made in the regulations for the suspension or cancellation of licenses upon the request of the licensees. (The act also now provides for suspension or revocation of licenses for stated causes. Comparable authority would be provided by section 9 of the bill.)

Paragraph (c) provides for examinations and reexaminations of any applicants for licenses, licensees, or employees of the Department. At present, there is provision only for examination of an applicant for an inspector's license (7 U.S.C. 79).

Paragraph (d) provides that persons employed by an official inspection agency or performing official inspection functions under a contract with the Department shall not be deemed to be employees of the Federal Government. At present, there is no specific provision in the act on this point.

Section 9.—This section continues and makes more comprehensive the authority to refuse to renew, to suspend, or to revoke licenses for specified causes, and provides for an opportunity for hearing. It also continues and makes more specific the authority to suspend a license temporarily pending final determination. (7 U.S.C. 80).

Section 10.—Paragraph (a) would authorize refusal of official inspection services (required or voluntary) with respect to any person if such person (or a person associated with him in specified ways) has been convicted of any violation of section 13 of the revised act or if inspection has been refused to such person, or anyone with whom he was responsibly connected, for any such cause for a period which has not expired, and if providing the inspection would be inimical to the official inspection service. There is no provision for denying service at present.

Paragraph (b) defines the term "responsibly connected" as used in paragraph (a). The term is not used at present.

Paragraph (c) provides that before inspection is refused with respect to any grain, an opportunity for a hearing shall be afforded the applicant.

Section 11.—Section 11 continues and makes more comprehensive the conflict-of-interest provisions with respect to licensees and employees of the Department. It provides that qualified employees of grain elevators may be licensed to sample grain, and provides that the Secretary may, by regulation, make other exceptions to the conflict-of-interest provisions. At present, licensed inspectors and employees of the Department are subject to comparable but somewhat narrower conflict-of-interest provisions. No exceptions are provided at present (7 U.S.C. 81).

Section 12.—Paragraph (a) provides that official inspection agencies and licensees shall maintain samples of inspected grain and such other records as may be required by regulation. At present, only licensed inspectors and the Secretary are required to maintain records. There is no provision for maintaining file samples (7 U.S.C. 82 and 83).

Paragraph (b) provides that the records shall be maintained by the official inspection agencies for 2 years except for grain samples which are to be kept for such period not over 90 days as the Secretary shall prescribe and except that the Secretary may in specific cases require other records to be kept for as long as 3 additional years. There is no retention period specified at present.

Paragraph (c) would require official inspection agencies required to maintain records under the section to permit authorized representatives of the Secretary to have access thereto at all reasonable times. There is no such provision now.

Section 13.—Paragraph (a) continues and makes more comprehensive the list of prohibited acts subject to criminal penalty. (7 U.S.C. 85 and 86). In addition, aiding, abetting, or willfully causing any of such acts to be done would be punishable under 18 U.S.C. 2. Added prohibitions applicable to any person include, in part, knowingly falsely making, issuing, or altering an official certificate; knowingly using as true any falsely made certificate; knowingly possessing any grain in a container bearing any falsely made official mark (without giving notice thereof); altering an official sample; knowingly using an official grade designation on a container unless the grain in the container was officially inspected and found to conform to such designation; knowingly making any false representations that grain has been officially inspected; and using any false or misleading means in connection with the making of an application for inspection. The bill rephrases the prohibition against causing or attempting to cause the issuance of a false or incorrect official certificate, to clarify the application thereof to such acts by any means, whether deceptive leading is involved or not and whether correct certificates are issued or not. (The present provision that prohibits nonlicensed inspectors from stating, in writing, the grade of grain is deleted (7 U.S.C. 79).)

Paragraph (b) continues and makes more comprehensive the list of prohibited acts by licensees and authorized employees. The present prohibited acts by inspection personnel are specifically applicable to licensed inspectors and to samplers (7 U.S.C. 85).

Paragraph (c) provides that an offense shall be deemed to have been done knowingly if it resulted from gross negligence or was committed with knowledge of the pertinent facts. There is no such provision at present.

Section 14.—Paragraph (a) increases the maximum fine and reduces the maximum imprisonment for a first offense and provides for a further increase in the maximum fine and prescribes the present maximum imprisonment for subsequent offenses (7 U.S.C. 85, 86).

Paragraph (b) provides for the issuance of warning letters for minor violations. There is no such provision at present.

Section 15.—This section continues the provision with respect to the responsibility of principals for the acts of their agents (7 U.S.C. 73).

Section 16.—This continues and makes more comprehensive the authority to make supervisory inspections and investigations (7 U.S.C. 74 and 77). Continues the authority to prescribe rules and regulations

(7 U.S.C. 84). Provides that determinations as to the truthfulness of representations shall generally be based on official tests. There is no such provision at present. Provides that proceedings for refusal to renew or for suspension or revocation of licenses or for refusal of voluntary official inspection service shall not be subject to the hearings and decisions provisions of 5 U.S.C. 554, 556, and 557, unless requested by the respondent. There is no such provision at present.

Section 17.—This section provides new enforcement authorities adapted from the Federal Trade Commission Act.

Paragraph (a) provides that the Secretary shall have access to, and the right to copy, any documentary evidence of any person with respect to whom such authority is exercised; and empowers the Secretary to issue subpoenas and to administer oaths and affirmations.

Paragraph (b) provides that the attendance of witnesses and production of documentary evidence may be required from any place in the United States, at any place of hearing; and authorizes the Secretary to invoke the aid of specified courts to enforce such requirements.

Paragraph (c) provides for judicial enforcement of the subpoenas of the Secretary.

Paragraph (d) provides for witness fees.

Paragraph (e) would make the failure to comply with a subpoena or to testify or produce documentary evidence or answer inquiries in obedience to a lawful requirement of the Secretary a misdemeanor, subject to the penalties set forth in section 14.

Paragraph (f) provides that no person shall be excused from testifying or producing evidence on the grounds that to do so may tend to incriminate him or subject him to a penalty or forfeiture; but that no individual shall be prosecuted or subjected to a penalty or forfeiture on account of testimony or evidence he is compelled to give after claiming the privilege against self-incrimination, except that there is no exemption from prosecution and punishment for perjury committed in so testifying.

Paragraph (g) makes it a misdemeanor for any officer or employee of the Department to make public any information obtained under this act, without authorization from the Secretary or as directed by a court.

Paragraph (h) specifies courts which are to have jurisdiction in cases arising under the act.

Section 18.—Paragraph (a) provides that no State or subdivision thereof may require inspection or description under any standards as a condition of shipment or sale of grain in interstate or foreign commerce. (Only a few States have such requirements.) It provides that no State or subdivision may require a license for or impose other restrictions on performance of official inspection functions by official inspection personnel, and provides that otherwise nothing in the act shall invalidate any State or local law not in conflict with the act. There are no such provisions at present.

Paragraph (b) continues and updates the provision with respect to separability of provisions (7 U.S.C. 87).

Section 19.—This section would authorize the appropriation of such sums as are necessary to carry out the provisions of the act. (Only overtime, night, and holiday work for appeal inspections is self-funding at present.)

Section 20.—This section provides that the amendments shall become effective 180 days after enactment, except that the repeal of

the mandatory inspection provisions with respect to grain in interstate commerce shall become effective 30 days after enactment, at which time the provisions of paragraphs 6(a) and 13(a)(5) (reuse of official grade designations) shall also become effective with respect to such grain.

(The act as revised by the bill omits provision now in section 3 of the act (7 U.S.C. 75) designating the standards under the act as the official grain standards of the United States.)

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SHORT TITLE

Section 1. **[That] [t]** This Act **[shall be known by the short title of]** *may be cited as* the United States **[g]** Grain **[s]** Standards Act.

[The word 'person,' wherever used in this Act, shall be construed to import the plural or singular, as the case demands, and shall include individuals, associations, partnerships, and corporations; the words 'in interstate or foreign commerce,' wherever used in this Act, mean 'from any State, Territory, or District to or through any other State, Territory, or District, or to or through any foreign country, or within any Territory or District.' When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.]

DECLARATION OF POLICY

[SEC. 2. That the Secretary of Agriculture is hereby authorized to investigate the handling, grading, and transportation of grain and to fix and establish as soon as may be after the enactment hereof standards of quality and condition for corn (maize), wheat, rye, oats, barley, flaxseed, soybeans, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary of Agriculture shall have power to alter or modify such standards whenever the necessities of the trade may require. In promulgating the standards, or any alteration or modification of such standards, the Secretary shall specify the date or dates when the same shall become effective, and shall give public notice, not less than ninety days in advance of such date or dates, by such means as he deems proper.**]**

SEC. 2. Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general

welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, and to provide for an official inspection system for grain; with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated.

DEFINITIONS

[SEC. 3. That the standards so fixed and established shall be known as the official grain standards of the United States.]

SEC. 3. When used in this Act, except where the context requires otherwise—

(a) the term "Secretary" means the Secretary of Agriculture of the United States or his delegates;

(b) the term "Department of Agriculture" means the United States Department of Agriculture;

(c) the term "person" means any individual, partnership, corporation, association, or other business entity;

(d) the term "United States" means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

(e) the term "State" means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term "interstate or foreign commerce" means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term "grain" means corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of this Act.

(h) the term "export grain" means grain for shipment from the United States to any place outside thereof;

(i) the term "official inspection" means the determination and the certification, by official inspection personnel, of the kind, class, quality, condition, or quantity of sacks of grain, under standards provided for in this Act or, upon request of the interested person applying for inspection, other criteria approved by the Secretary under this Act (the term "officially inspected" shall be construed accordingly);

(j) the term "official inspection personnel" means employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this Act; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports;

(k) the term "official inspection mark" means any symbol prescribed by regulations of the Secretary to show the official determination of the kind, class, quality, condition, or quantity of, or other facts relating to grain, under standards provided for in this Act or, upon request of the interested person applying for inspection, other criteria approved by the Secretary under this Act;

(l) the term "official grade designation" means a numerical or sample grade designation, specified in the standards provided for in this Act;

(m) the term "official inspection agency" means the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this Act;

(n) the term "official certificate" and "official form" mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this Act;

(o) the term "official sample" means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term "official sampling" shall be construed accordingly);

(p) the term "submitted sample" means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term "lot" means a specific quantity of grain identified as such;

(r) the term "interested person" means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb "ship" with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

(t) the terms "false", "incorrect", and "misleading" mean, respectively, false, incorrect, and misleading in any particular;

(u) the term "deceptive loading, handling, or sampling" means any manner of loading, handling, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this Act.

STANDARDS

[SEC. 4. That whenever standards shall have been fixed and established under this Act for any grain no person thereafter shall ship or deliver for shipment in interstate or foreign commerce any such grain which is sold, offered for sale, or consigned for sale by grade unless the grain shall have been inspected and graded by an inspector licensed under this Act and the grade by which it is sold, offered for sale, or consigned for sale be one of the grades fixed therefor in the official grain standards of the United States *Provided*, That any person may sell, offer for sale, or consign for sale, ship, or deliver for shipment in interstate or foreign commerce any such grain by sample or by type, or under any name, description, or designation which is not false or misleading, and which name, description, or designation does not include in whole or in part the terms of any official grain standard of the United States: *Provided further*, That any such grain sold, offered for sale, or consigned for sale by grade may be shipped or delivered for shipment in interstate or foreign commerce without inspection at point of shipment by an inspector licensed under this Act, to or through any place at which an inspector licensed under this Act is located, subject to be inspected by a licensed inspector at the place to which shipped or at some convenient point through which shipped for inspection, which inspection shall be under such rules and regulations as the Secretary of Agriculture shall prescribe,

and subject further to the right of appeal from such inspection, as provided in section six of this Act: *And provided further*, That any such grain sold, offered for sale, or consigned for sale by any of the grades fixed therefor in the official grain standards may, upon compliance with the rules and regulations prescribed by the Secretary of Agriculture, be shipped in interstate or foreign commerce without inspection from a place at which there is no inspector licensed under this Act to a place at which there is no such inspector, subject to the right of either party to the transaction to refer any dispute as to the grade of the grain to the Secretary of Agriculture, who may determine the true grade thereof. No person shall in any certificate or in any contract or agreement of sale or agreement to sell by grade, either oral or written, involving, or in any invoice or bill of lading or other shipping document relating to, the shipment or delivery for shipment, in interstate or foreign commerce, of any grain for which standards shall have been fixed and established under this Act describe, or in any way refer to, any of such grain as being of any grade other than a grade fixed therefor in the official grain standards of the United States.】

SEC. 4. (a) The Secretary is authorized to investigate the handling, grading, and transportation of grain and to fix and establish standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary is authorized to amend or revoke such standards whenever the necessities of the trade may require.

(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon, and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN EXPORT GRAIN

【**SEC. 5.** That no person, except as permitted in section four, shall represent that any grain shipped or delivered for shipment in interstate or foreign commerce is of a grade fixed in the official grain standards other than as shown by a certificate therefor issued in compliance with this Act; and the Secretary of Agriculture is authorized to cause examinations to be made of any grain for which standards shall have been fixed and established under this Act, and which has been certified to conform to any grade fixed therefor in such official grain standards, or which has been shipped or delivered for shipment in interstate or foreign commerce. Whenever, after opportunity for hearing is given to the owner or shipper of the grain involved, and to the inspector thereof if the same has been inspected, it is determined by the Secretary that any quantity of grain has been incorrectly certified to conform to a specified grade, or has been sold, offered for sale, or consigned for sale under any name, description, or designation which is false or misleading, he may publish his findings.】

SEC. 5. Whenever standards are effective under section 4 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain that is sold, offered for sale, or consigned for sale by grade, unless such lot is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: Provided, however, That the Secretary may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments.

REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

[SEC. 6. Whenever standards shall have been fixed and established under this Act for any grain and any quantity of such grain sold, offered for sale, or consigned for sale, or which has been shipped, or delivered for shipment in interstate or foreign commerce shall have been inspected and a dispute arises as to whether the grade as determined by such inspection of any such grain in fact conforms to the standard of the specified grade, any interested party may, either with or without reinspection, appeal the question to the Secretary of Agriculture, and the Secretary of Agriculture is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine the true grade: Provided, That any appeal from such inspection and grading to the Secretary of Agriculture shall be taken before the grain leaves the place where the inspection appealed from was made and before the identity of the grain has been lost, under such rules and regulations as the Secretary of Agriculture shall prescribe. Whenever an appeal shall be taken or a dispute referred to the Secretary of Agriculture under this Act, he shall charge and assess, and cause to be collected, a reasonable fee, in amount to be fixed by him. The fee, in case of an appeal, shall be refunded if the appeal is sustained. All such fees, not so refunded, shall be deposited and covered into the Treasury as miscellaneous receipts. The Secretary of Agriculture is authorized to pay employees assigned to perform appeal inspections for all overtime, night, or holiday work at such rates as he may determine and to accept from persons, Government agencies and departments, and Government corporations for whom such work is performed reimbursement for any sums paid for such work. The findings of the Secretary of Agriculture as to grade, signed by him or by such officer or officers, agent or agents, of the Department of Agriculture as he may designate, made after the parties in interest have had opportunity to be heard, shall be accepted in the courts of the United States as prima facie evidence of the true grade of the grain determined by him at the time and place specified in the findings.]

SEC. 6. (a) Whenever standards are effective under section 4 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any

advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: Provided, That, with respect to interstate commerce, the description of such grain by an proprietary brand name or trademark that does not resemble an official grade designation, or by the use of one or more grade factor designation set forth in the official United States standards for grain, or by other factor information shall not be deemed to be a description of grain as being of any grade.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

OFFICIAL INSPECTION AUTHORITY AND FUNDING

[SEC. 7. The Secretary of Agriculture may issue a license to any person, upon presentation to him of satisfactory evidence that such person is competent, to inspect and grade grain and to certificate the grade thereof for shipment or delivery for shipment in interstate or foreign commerce, under this Act and the rules and regulations prescribed thereunder. No person authorized or employed by any State, county, city, town, board of trade, chamber of commerce, corporation, society, partnership, or association to inspect or grade grain shall certify, or otherwise state or indicate in writing, that any grain for shipment or delivery for shipment in interstate or foreign commerce, which has been inspected or graded by him, or by any person acting under his authority, is of one of the grades of the official grain standards of the United States, unless he holds an unsuspended and unrevoked license issued by the Secretary of Agriculture: *Provided, That* in any State which has, or which may hereafter have a State grain inspection department established by the laws of such State, the Secretary of Agriculture shall issue licenses to the persons duly authorized and employed to inspect and grade grain under the laws of such State. The Secretary of Agriculture may suspend or revoke any license issued by him under this Act whenever, after opportunity for hearing has been given to the licensee, the Secretary shall determine that such licensee is incompetent or has knowingly or carelessly graded grain improperly or by any other standard than is authorized under this Act, or has issued any false certificate of grade, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has violated any provision of this Act or of the rules and regulations made hereunder. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without hearing: *Provided further, That* no person licensed by the Secretary of Agriculture to inspect or grade grain or employed by him in carrying out any of the provisions of this Act shall, during the term of such license or employment, be interested, financially or otherwise, directly or indirectly, in any grain elevator or warehouse, or in the merchandising of grain, nor shall he be in the employment of any person or corporation owning or operating any grain elevator or warehouse.

【The Secretary of Agriculture shall require every inspector licensed under this Act to keep complete and correct records of all grain graded and inspected by him, and to make reports to the Secretary of Agriculture, in such forms and at such times as he may require, showing the place of inspection, the date of inspection, the name of the elevator or warehouse, if any, to which the grain was delivered or from which it was shipped, the kind of grain, the quantity of each kind, the grade thereof, and such other information as the Secretary of Agriculture may deem necessary. The Secretary of Agriculture, on each first Tuesday in January and each first Tuesday in July of each year shall make publication of a summary of such facts as are ascertained, showing in as great detail as possible all the facts, including a summary as to the amount and grade of grain delivered to the elevator or warehouse and the amount and grade of grain delivered from such elevator or warehouse, and the estimated amount received on sample or type by such elevator or warehouse, and the estimated amount delivered therefrom on sample or type.】

SEC. 7. (a) The Secretary is authorized to cause official inspection under the standards provided for in section 4 of this Act to be made of all grain required to be officially inspected as provided in section 5 of this Act, in accordance with such regulations as he may prescribe.

(b) The Secretary is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States or with respect to United States grain in Canadian ports under standards provided for in section 4 of this Act, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, condition, or quantity of, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 2 of this Act.

(c) The regulations prescribed by the Secretary under this Act shall include provisions for reinspections and appeal inspections; cancellation of certificates superseded by reinspections and appeal inspections. The Secretary may provide by regulation that samples obtained by or for employees of the Department of Agriculture for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).

(d) Certificates issued and not canceled under this Act shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(e) The Secretary may, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated total cost of official inspection except when the inspection is performed by employees of an official inspection agency. The fees authorized by this paragraph shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Department of Agriculture incident to the performance of appeal and Canadian port inspection services for which the fees are collected, including supervisory and administrative costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into the United States Treasury as miscellaneous receipts.

(f) *Not more than one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area.*

LICENSES AND AUTHORIZATIONS

【SEC. 8. That the Secretary of Agriculture shall, from time to time, make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.】

SEC. 8. (a) The Secretary is authorized to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official inspection agency to perform all or specified functions involved in official inspection; to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports; and to license any other competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture. No person shall perform any official inspection functions for purposes of this Act unless he holds an unsuspended and unrevoked license or authorization from the Secretary under this Act.

(b) All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: Provided, That any license shall be suspended automatically when the licensee ceases to be employed by an official inspection agency or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: Provided further, That subject to paragraph (c) of this section, such license shall be reinstated if the licensee is employed by an official inspection agency or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

“(c) The Secretary may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Department of Agriculture, to perform any official inspection function under this Act.

(d) Persons employed by an official inspection agency and persons performing official inspection functions under or contracts with the Department of Agriculture shall not, unless otherwise employed by the Federal Government, be deemed to be employees of the Federal Government of the United States.

REFUSAL OF RENEWAL, OF SUSPENSION OR REVOCATION, OF LICENSES

【SEC. 9. Any person who shall knowingly violate any of the provisions of sections 4 or 7 of this Act, or any inspector licensed under this Act, or any person sampling grain for inspection under this Act, who shall knowingly inspect, grade, or sample improperly any grain which has been shipped or delivered for shipment in interstate or foreign commerce, or shall knowingly give any false or incorrect certificate of grade, or shall accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty, and any person who shall improperly influence or attempt to improperly influence any such inspector or sampler in the performance of his duty, or shall knowingly or willfully cause, or attempt to cause, the issuance of a false or incorrect certificate of grade under this Act

by deceptive loading, handling, or sampling of grain, or by submitting grain for inspection knowing that it has been so loaded, handled, or sampled, or by any other means, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000 or be imprisoned not more than one year, or both.】

SEC. 9. The Secretary may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has otherwise inspected grain improperly under this Act, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the regulations prescribed or instructions issued to him by the Secretary under this Act. The Secretary may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Secretary deems such action to be in the best interests of the official inspection system under this Act.

REFUSAL OF OFFICIAL INSPECTION

【*SEC. 10. That every person who forcibly assaults, resists, impedes, or interferes with any officer or employee of the United States Department of Agriculture in the execution of any duties authorized to be performed by this Act or the rules and regulation made hereunder shall, upon conviction thereof, be fined not more than \$1,000, or be imprisoned not more than one year, or both.*】

SEC. 10. (a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection otherwise available under the Act with respect to any grain offered for inspection, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof) has been convicted of any violation of section 13 of this Act, or that official inspection has been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing official inspection with respect to such grain would be inimical to the integrity of the official inspection service.

(b) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

(c) Before official inspection is refused to any person under paragraph (a), such person shall be afforded opportunity for a hearing.

PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

【SEC. 11. That if any clause, sentence, paragraph, or part of this Act, shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.】

SEC. 11. No person licensed or authorized by the Secretary to perform any official inspection function under this Act, or employed by the Secretary in otherwise carrying out any of the provisions of this Act, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: Provided, however, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this Act.

RECORDS

【SEC. 12. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$250,000, which shall be available until expended, for the expenses of carrying into effect the provisions of this Act, including such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere.】

SEC. 12. (a) Every official inspection agency and every person licensed to perform any official inspection function under this shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this Act.

(b) Every official inspection agency required to maintain records under this section shall keep such records for a period of two years after the inspection or transaction, which is the subject of the record, occurred: Provided, however, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to said two-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

(c) Every official inspection agency required to maintain records under this section shall permit any authorized representative of the Secretary to have access to, and to copy, such records at all reasonable times.

PROHIBITED ACTS

SEC. 13. (a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official inspection mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official inspection mark, or knowingly possess, without promptly notifying the Secretary or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official inspection certificate or other official form, or any device for making any official inspection mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official inspection mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, or sampling of grain, or submitting grain for official inspection knowing that it has been deceptively loaded, handled, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official inspection mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this Act;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;

(9) falsely represent that he is licensed or authorized to perform an official inspection function under this Act;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection; or

(11) violate any provision of sections 5, 6, 8, 11, or 12 of this Act.

(b) No person licensed or authorized to perform any function under this Act shall—

(1) commit any offense prohibited by subsection (a);

(2) knowingly perform improperly any official sampling or other official inspection function under this Act;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

PENALTIES

SEC. 14. (a) Any person who commits any offense prohibited by section 13 shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than six months, a fine of not more than \$3,000 or both such imprisonment and fine; but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine.

(b) Nothing in this Act shall be construed as requiring the Secretary to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

RESPONSIBILITY FOR ACTS OF OTHERS

SEC. 15. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

GENERAL AUTHORITIES

SEC. 16. The Secretary is authorized to conduct such investigations, hold such hearings, require such reports from any official inspection agency or any person, and prescribe such rules and regulations as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 or 10 of this Act for refusal to renew, or for suspension or revocation of, a license, or for refusal of official inspection service not required by section 5 of this Act, shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5, United States Code.

ENFORCEMENT PROVISIONS

SEC. 17. (a) For the purposes of this Act, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, and may administer oaths and affirmations, examine witnesses and receive evidence.

(b) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena the Secretary may invoke the aid of any court designated in paragraph (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

(f) No person shall be excused from attending and testifying or from producing documentary evidence before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(g) Any officer or employee of the Department of Agriculture who shall make public any information obtained under this Act by the Department of Agriculture, without its authority, unless directed by the court, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

(h) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this Act.

RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

SEC. 18. (a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon, the performance of any official inspection function under this Act by official inspection personnel. Otherwise nothing in this Act shall invalidate any law or other

provision of any State or subdivision thereof in the absence of a conflict with this Act.

(b) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

APPROPRIATIONS

SEC. 19. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 20. This Act shall become effective one hundred and eighty days after enactment hereof, except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof and the provisions of paragraph 6(a) and 13(a)(5) of this Act shall then become effective with respect to such grain.



Union Calendar No. 536

90TH CONGRESS
2D SESSION

H. R. 15794

[Report No. 1344]

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 1968

Mr. PURCELL introduced the following bill; which was referred to the Committee on Agriculture

MAY 1, 1968

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for United States standards and a national inspection system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting
4 of part B of "An Act Making appropriations for the De-
5 partment of Agriculture for the fiscal year ending June
6 thirtieth, nineteen hundred and seventeen, and for other
7 purposes", approved August 11, 1916 (39 Stat. 446, at
8 482), as amended (7 U.S.C. 71-87), is hereby amended
9 to read as follows:

1 “SHORT TITLE

2 “SECTION 1. This Act may be cited as the ‘United
3 States Grain Standards Act’.

4 “DECLARATION OF POLICY

5 “SEC. 2. Grain is an essential source of the world’s total
6 supply of human food and animal feed and is merchandised
7 in interstate and foreign commerce. It is declared to be the
8 policy of the Congress, for the promotion and protection of
9 such commerce in the interests of producers, merchandisers,
10 warehousemen, processors, and consumers of grain, and the
11 general welfare of the people of the United States, to provide
12 for the establishment of official United States standards for
13 grain, to promote the uniform application thereof by official
14 inspection personnel, and to provide for an official inspection
15 system for grain; with the objectives that grain may be
16 marketed in an orderly manner and that trading in grain
17 may be facilitated.

18 “DEFINITIONS

19 “SEC. 3. When used in this Act, except where the con-
20 text requires otherwise—

21 “(a) the term ‘Secretary’ means the Secretary of
22 Agriculture of the United States or his delegates;

23 “(b) The term ‘Department of Agriculture’ means
24 the United States Department of Agriculture;

1 “(c) the term ‘person’ means any individual, part-
2 nership, corporation, association, or other business entity ;

3 “(d) the term ‘United States’ means the States
4 (including Puerto Rico) and the territories and posses-
5 sions of the United States (including the District of
6 Columbia) ;

7 “(e) the term ‘State’ means any one of the States
8 (including Puerto Rico) or territories or possessions of
9 the United States (including the District of Columbia) ;

10 “(f) the term ‘interstate or foreign commerce’
11 means commerce from any State to or through any
12 other State, or to or through any foreign country ;

13 “(g) the term ‘grain’ means corn, wheat, rye, oats,
14 barley, flaxseed, grain sorghum, soybeans, mixed grain,
15 and any other food grains, feed grains, and oilseeds for
16 which standards are established under section 4 of this
17 Act.

18 “(h) the term ‘export grain’ means grain for ship-
19 ment from the United States to any place outside thereof ;

20 “(i) the term ‘official inspection’ means the deter-
21 mination and the certification, by official inspection per-
22 sonnel, of the kind, class, quality, condition, or quantity
23 of sacks of grain, under standards provided for in this
24 Act or, upon request of the interested person applying

1 for inspection, other criteria approved by the Secretary
2 under this Act (the term ‘officially inspected’ shall be
3 construed accordingly) ;

4 “(j) the term ‘official inspection personnel’ means
5 employees of State or other governmental agencies or
6 commercial agencies or other persons who are licensed
7 to perform all or specified functions involved in official
8 inspection under this Act; employees of the Department
9 of Agriculture who are authorized to supervise official
10 inspection and to conduct appeal inspection or initial
11 inspection of United States grain in Canadian ports;

12 “(k) the term ‘official inspection mark’ means any
13 symbol prescribed by regulations of the Secretary to
14 show the official determination of the kind, class, qual-
15 ity, condition, or quantity of, or other facts relating to
16 grain, under standards provided for in this Act or, upon
17 request of the interested person applying for inspection,
18 other criteria approved by the Secretary under this Act;

19 “(l) the term ‘official grade designation’ means
20 a numerical or sample grade designation, specified in
21 the standards provided for in this Act;

22 “(m) the term ‘official inspection agency’ means
23 the agency or person located at an inspection point
24 designated by the Secretary for the conduct of official
25 inspection under this Act;

1 “(n) the term ‘official certificate’ and ‘official form’
2 mean, respectively, a certificate or other form prescribed
3 by regulations of the Secretary under this Act;

4 “(o) the term ‘official sample’ means a sample ob-
5 tained from a lot of grain by, and submitted for official
6 inspection by, official inspection personnel (the term
7 ‘official sampling’ shall be construed accordingly) ;

8 “(p) the term ‘submitted sample’ means a sample
9 submitted by or for an interested person for official in-
10 spection, other than an official sample ;

11 “(q) the term ‘lot’ means a specific quantity of
12 grain identified as such ;

13 “(r) the term ‘interested person’ means any person
14 having a contract or other financial interest in grain as
15 the owner, seller, purchaser, warehouseman, or carrier,
16 or otherwise ;

17 “(s) the verb ‘ship’ with respect to grain means
18 transfer physical possession of the grain to another per-
19 son for the purpose of transportation by any means of
20 conveyance, or transport one’s own grain by any means
21 of conveyance ;

22 “(t) the terms ‘false’, ‘incorrect’, and ‘misleading’
23 mean, respectively, false, incorrect, and misleading in any
24 particular ;

1 “(u) the term ‘deceptive loading, handling, or
2 sampling’ means any manner of loading, handling, or
3 sampling that deceives or tends to deceive official inspec-
4 tion personnel, as specified by regulations of the Secre-
5 tary under this Act.

6 “STANDARDS

7 “SEC. 4. (a) The Secretary is authorized to investigate
8 the handling, grading, and transportation of grain and to fix
9 and establish standards of kind, class, quality, and condition
10 for corn, wheat, rye, oats, barley, flaxseed, grain sorghum,
11 soybeans, mixed grain, and such other grains as in his judg-
12 ment the usages of the trade may warrant and permit, and
13 the Secretary is authorized to amend or revoke such stand-
14 ards whenever the necessities of the trade may require.

15 “(b) Before establishing, amending, or revoking any
16 standards under this Act, the Secretary shall publish notice
17 of the proposal and give interested persons opportunity to
18 submit data, views, and arguments thereon and, upon re-
19 quest, an opportunity to present data, views, and argu-
20 ments orally in an informal manner. No standards established
21 or amendments or revocations of standards under this Act
22 shall become effective less than one calendar year after pro-
23 mulgation thereof, unless in the judgment of the Secretary,
24 the public health, interest, or safety require that they become
25 effective sooner.

“OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN
EXPORT GRAIN

“SEC. 5. Whenever standards are effective under section 4 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain that is sold, offered for sale, or consigned for sale by grade, unless such lot is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded abroad, or while it is in, the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided, however,* That the Secretary may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments.

“REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND
PROHIBITION OF CERTAIN ACTS WITH RESPECT TO
CERTAIN GRAIN

“SEC. 6. (a) Whenever standards are effective under section 4 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves

1 the shipment of such grain in interstate or foreign commerce,
2 describe such grain as being of any grade in any advertising,
3 price quotation, other negotiation of sale, contract of sale,
4 invoice, bill of lading, other document, or description on bags
5 or other containers of the grain, other than by an official
6 grade designation, with or without additional information as
7 to specified factors: *Provided*, That, with respect to inter-
8 state commerce, the description of such grain by any proprie-
9 tary brand name or trademark that does not resemble an
10 official grade designation, or by the use of one or more grade
11 factor designations set forth in the official United States
12 standards for grain, or by other factor information shall not
13 be deemed to be a description of grain as being of any grade.

14 “(b) No person shall, in any sale, offer for sale, or
15 consignment for sale, of any grain which involves the ship-
16 ment of such grain from the United States to any place out-
17 side thereof, knowingly describe such grain by any official
18 grade designation, or other description, which is false or
19 misleading.

20 “OFFICIAL INSPECTION AUTHORITY AND FUNDING

21 “SEC. 7. (a) The Secretary is authorized to cause official
22 inspection under the standards provided for in section 4 of
23 this Act to be made of all grain required to be officially in-
24 spected as provided in section 5 of this Act, in accordance
25 with such regulations as he may prescribe.

1 “(b) The Secretary is further authorized, upon request
2 of any interested person, and under such regulations as he
3 may prescribe, to cause official inspection to be made with
4 respect to any grain whether by official sample, submitted
5 sample, or otherwise within the United States or with respect
6 to United State grain in Canadian ports under standards
7 provided for in section 4 of this Act, or, upon request of
8 the interested person, under other criteria approved by the
9 Secretary for determining the kind, class, quality, condition,
10 or quantity of, or other facts relating to, grain, whenever in
11 his judgment providing such service will effectuate any of
12 the objectives stated in section 2 of this Act.

13 “(c) The regulations prescribed by the Secretary under
14 this Act shall include provisions for reinspections and appeal
15 inspections; cancellation of certificates superseded by re-
16 inspections and appeal inspections. The Secretary may pro-
17 vide by regulation that samples obtained by or for employees
18 of the Department of Agriculture for purposes of official in-
19 spection shall become the property of the United States, and
20 such samples may be disposed of without regard to the pro-
21 visions of the Federal Property and Administrative Services
22 Act of 1949, as amended (40 U.S.C. 471 et seq.).

23 “(d) Certificates issued and not canceled under this
24 Act shall be received by all officers and all courts of the

1 United States as prima facie evidence of the truth of the
2 facts stated therein.

3 “(e) The Secretary may, under such regulations as
4 he may prescribe, charge and collect reasonable fees to cover
5 the estimated total cost of official inspection except when the
6 inspection is performed by employees of an official inspection
7 agency. The fees authorized by this paragraph shall, as
8 nearly as practicable and after taking into consideration any
9 proceeds from the sale of samples, cover the costs of the
10 Department of Agriculture incident to the performance of
11 appeal and Canadian port inspection services for which the
12 fees are collected, including supervisory and administrative
13 costs. Such fees, and the proceeds from the sale of samples
14 obtained for purposes of official inspection which become the
15 property of the United States, shall be deposited into a fund
16 ~~which shall be available, without fiscal year limitation, for the~~
17 ~~expenses of the Department of Agriculture incident to pro-~~
18 ~~viding official inspection services~~ *the United States Treasury*
19 *as miscellaneous receipts.*

20 “(f) Not more than one inspection agency for carrying
21 out the provisions of this section shall be operative at one
22 time for any one city, town, or other area.

23 “LICENSES AND AUTHORIZATIONS

24 “SEC. 8. (a) The Secretary is authorized to issue a
25 license to any individual upon presentation to him of satis-

1 factory evidence that such individual is competent, and is
2 employed by an official inspection agency to perform all or
3 specified functions involved in official inspection; to author-
4 ize any competent employee of the Department of Agri-
5 culture to perform all or specified functions involved in
6 supervisory or appeal inspection or initial inspection of
7 United States grain in Canadian ports; and to license any
8 other competent individual to perform specified functions
9 involved in official inspection under a contract with the De-
10 partment of Agriculture. No person shall perform any official
11 inspection functions for purposes of this Act unless he holds
12 an unsuspended and unrevoked license or authorization from
13 the Secretary under this Act.

14 “ (b) All classes of licenses issued under this Act shall
15 terminate triennially on a date or dates to be fixed by regu-
16 lation of the Secretary: *Provided*, That any license shall
17 be suspended automatically when the licensee ceases to be
18 employed by an official inspection agency or to operate
19 independently under the terms of a contract for the conduct
20 of any functions involved in official inspection under this
21 Act: *Provided further*, That subject to paragraph (c) of this
22 section, such license shall be reinstated if the licensee is
23 employed by an official inspection agency or resumes opera-
24 tion under such a contract within one year of the suspension
25 date and the license has not expired in the interim.

1 “(c) The Secretary may require such examinations and
2 reexaminations as he may deem warranted to determine the
3 competence of any applicants for licenses, licensees, or em-
4 ployees of the Department of Agriculture, to perform any
5 official inspection function under this Act.

6 “(d) Persons employed by an official inspection agency
7 and persons performing official inspection functions under
8 contracts with the Department of Agriculture shall not, unless
9 otherwise employed by the Federal Government, be deemed
10 to be employees of the Federal Government of the United
11 States.”

12 “REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,
13 OF LICENSES

“SEC. 9. The Secretary may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has otherwise inspected grain improperly under this Act, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper

1 purpose, or has otherwise violated any provision of this Act
 2 or of the regulations prescribed or instructions issued to him
 3 by the Secretary under this Act. The Secretary may, without
 4 first affording the licensee an opportunity for a hearing, sus-
 5 pend any license temporarily pending final determination
 6 whenever the Secretary deems such action to be in the best
 7 interests of the official inspection system under this Act.

8 "REFUSAL OF OFFICIAL INSPECTION

9 "SEC. 10. (a) The Secretary may (for such period.
 10 or indefinitely, as he deems necessary to effectuate the pur-
 11 poses of this Act) refuse to provide official inspection other-
 12 wise available under the Act with respect to any grain offered
 13 for inspection, or owned, wholly or in part, by any person if
 14 he determines (1) that the individual (or in case such per-
 15 son is a partnership, any general partner; or in case such
 16 person is a corporation, any officer, director, holder, or
 17 owner of more than 10 per centum of the voting stock; or
 18 in case such person is an unincorporated association or other
 19 business entity, any officer or director thereof) has ~~committed~~
 20 *been convicted of* any ~~repeated or flagrant~~ violation of section
 21 ~~44 13~~ of this Act, or that official inspection has been refused
 22 for any of the above-specified causes (for a period which
 23 has not expired) to such person, or any other person con-
 24 ducting a business with which the former was, at the time

1 such cause existed, or is responsibly connected; and (2) that
2 providing official inspection with respect to such grain would
3 be inimical to the integrity of the official inspection service.

4 “(b) For purposes of paragraph (a) of this section, a
5 person shall be deemed to be responsibly connected with a
6 business if he was or is a partner, officer, director, holder, or
7 owner of 10 per centum or more of its voting stock, or an
8 employee in a managerial or executive capacity.

9 “(c) Before official inspection is refused to any person
10 under paragraph (a), such person shall be afforded oppor-
11 tunity for a hearing.

12 “PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

13 “SEC. 11. No person licensed or authorized by the Sec-
14 retary to perform any official inspection function under this
15 Act, or employed by the Secretary in otherwise carrying out
16 any of the provisions of this Act, shall, during the term of
17 such license, authorization, or employment, (a) be finan-
18 cially interested (directly or otherwise) in any business
19 entity owning or operating any grain elevator or warehouse
20 or engaged in the merchandising of grain, or (b) be in the
21 employment of, or accept gratuities from, any such entity, or
22 (c) be engaged in any other kind of activity specified by
23 regulation of the Secretary as involving a conflict of interest:
24 *Provided, however,* That the Secretary may license qualified
25 employees of any grain elevators or warehouses to perform

1 official sampling functions, under such conditions as the Sec-
2 retary may by regulation prescribe, and the Secretary may
3 by regulation provide such other exceptions to the restrictions
4 of this section as he determines are consistent with the pur-
5 poses of this Act.

6 “RECORDS

7 “SEC. 12. (a) Every official inspection agency and
8 every person licensed to perform any official inspection func-
9 tion under this Act shall maintain such samples of officially
10 inspected grain and such other records as the Secretary may
11 by regulation prescribe for the purpose of administration and
12 enforcement of this Act.

13 “(b) Every official inspection agency required to main-
14 tain records under this section shall keep such records for a
15 period of two years after the inspection or transaction, which
16 is the subject of the record, occurred: *Provided, however,*
17 That grain samples shall be required to be maintained only
18 for such period not in excess of ninety days as the Secretary
19 shall prescribe; and in specific cases other records may be
20 required by the Secretary to be maintained for not more than
21 three years in addition to said two-year period whenever in
22 his judgment the retention of such records for the longer
23 period is necessary for the effective administration and en-
24 forcement of this Act.

25 “(c) Every official inspection agency required to main-

1 tain records under this section shall permit any authorized
2 representative of the Secretary to have access to, and to copy,
3 such records at all reasonable times.

4 “PROHIBITED ACTS

5 “SEC. 13. (a) No person shall—

6 “ (1) knowingly falsely make, issue, alter, forge, or
7 counterfeit any official certificate or other official form or
8 official inspection mark;

9 “ (2) knowingly utter, publish, or use as true any
10 falsely made, issued, altered, forged, or counterfeited
11 official certificate or other official form or official inspec-
12 tion mark, or knowingly possess, without promptly noti-
13 fying the Secretary or his representative, or fail to sur-
14 render to such a representative upon demand, any falsely
15 made, issued, altered, forged, or counterfeited official
16 inspection certificate or other official form, or any device
17 for making any official inspection mark or simulation
18 thereof, or knowingly possess any grain in a container
19 bearing any falsely made, issued, altered, forged, or
20 counterfeited official inspection mark without promptly
21 giving such notice;

22 “ (3) knowingly cause or attempt (whether suc-
23 cessfully or not) to cause the issuance of a false or incor-
24 rect official certificate or other official form by any means,
25 or sampling of grain, or submitting grain for official

1 including but not limited to deceptive loading, handling,
2 including but not limited to deceptive loading, handling,
3 or sampling of grain, or submitting grain for official
4 inspection knowing that it has been deceptively loaded,
5 handled, or sampled, without disclosing such knowledge
6 to the official inspection personnel before official
7 sampling;

8 “(4) alter any official sample of grain in any
9 manner or, knowing that an official sample has been
10 altered, thereafter represent it as an official sample;

11 “(5) knowingly use any official grade designation
12 or official inspection mark on any container of grain
13 by means of a tag, label, or otherwise, unless the grain
14 in such container was officially inspected on the basis of
15 an official sample taken while the grain was being loaded
16 into or was in such container and the grain was found
17 to qualify for such designation or mark;

18 “(6) knowingly make any false representation that
19 any grain has been officially inspected, or officially
20 inspected and found to be of a particular kind, class,
21 quality, condition, or quantity, or that particular facts
22 have been established with respect to grain by official
23 inspection under this Act;

24 “(7) improperly influence, or attempt to improp-

1 erly influence, any official inspection personnel or any
2 officer or employee of the Department of Agriculture
3 with respect to the performance of his duties under this
4 Act;

5 “(8) forcibly assault, resist, oppose, impede, intimi-
6 date, or interfere with any official inspection personnel
7 or any officer or employee of the Department of Agricul-
8 ture in, or on account of, the performance of his duties
9 under this Act;

10 “(9) falsely represent that he is licensed or author-
11 ized to perform ~~and~~ *an* official inspection function under
12 this Act;

13 “(10) use any false or misleading means in connec-
14 tion with the making or filing of an application for
15 official inspection; or

16 “(11) violate any provision of section 5, 6, 8, 11,
17 or 12 of this Act.

18 “(b) No person licensed or authorized to perform any
19 function under this Act shall—

20 “(1) commit any offense prohibited by subsection
21 (a) ;

22 “(2) knowingly perform improperly any official
23 sampling or other official inspection function under this
24 Act;

1 “(3) knowingly execute or issue any false or
2 incorrect official certificate or other official form; or

3 “(4) accept money or other consideration, directly
4 or indirectly, for any neglect or improper performance
5 of duty.

6 “(c) An offense shall be deemed to have been com-
7 mitted knowingly under this Act if it resulted from gross
8 negligence or was committed with knowledge of the perti-
9 nent facts.

10 “PENALTIES

11 “SEC. 14. (a) Any person who commits any offense
12 prohibited by section 13 shall be guilty of a misdemeanor
13 and shall, on conviction thereof, be subject to imprisonment
14 for not more than six months, a fine of not more than
15 \$3,000 or both such imprisonment and fine; but if such
16 offense is committed after one conviction of such person
17 under this section has become final, such person shall be
18 subject to imprisonment for not more than one year, or a
19 fine of not more than \$5,000, or both such imprisonment and
20 fine.

21 “(b) Nothing in this Act shall be construed as requiring
22 the Secretary to report minor violations of this Act for
23 criminal prosecution whenever he believes that the public

1 interest will be adequately served by a suitable written
2 notice or warning.

3 “RESPONSIBILITY FOR ACTS OF OTHERS

4 “SEC. 15. When construing and enforcing the provisions
5 of this Act, the act, omission, or failure of any official,
6 agent, or other person acting for or employed by any asso-
7 ciation, partnership, or corporation within the scope of his
8 employment or office shall, in every case, also be deemed
9 the act, omission, or failure of such association, partnership,
10 or corporation as well as that of the person.

11 “GENERAL AUTHORITIES

12 “SEC. 16. The Secretary is authorized to conduct such
13 investigations, hold such hearings, require such reports from
14 any official inspection agency or any person, and prescribe
15 such rules and regulations as he deems necessary to effectu-
16 ate the purposes or provisions of this Act. Whether any cer-
17 tificate, other form, representation, designation, or other
18 description is false, incorrect, or misleading within the mean-
19 ing of this Act shall be determined by tests made in accord-
20 ance with such procedures as the Secretary may adopt to
21 effectuate the objectives of this Act, if the relevant facts
22 are determinable by such tests. Proceedings under section
23 9 or 10 of this Act for refusal to renew, or for suspension or
24 revocation of, a license, or for refusal of official inspection
25 service not required by section 5 of this Act, shall not, un-

1 less requested by the respondent, be subject to the adminis-
2 trative procedure provisions in sections 554, 556, and 557
3 of title 5, United States Code.

4 “ENFORCEMENT PROVISIONS

5 “SEC. 17. (a) For the purposes of this Act, the Secre-
6 tary shall at all reasonable times have access to, for the pur-
7 pose of examination, and the right to copy any documentary
8 evidence of any person with respect to whom such authority
9 is exercised; and the Secretary shall have power to require
10 by subpoena the attendance and testimony of witnesses and
11 the production of all such documentary evidence relating to
12 any matter under investigation, and may administer oaths
13 and affirmations, examine witnesses, and receive evidence.

14 “(b) Such attendance of witnesses, and the production
15 of such documentary evidence, may be required from any
16 place in the United States, at any designated place of hear-
17 ing. In case of disobedience to a subpoena the Secretary may
18 invoke the aid of any court designated in paragraph (h) of
19 this section in requiring the attendance and testimony of
20 witnesses and the production of documentary evidence.

21 “(c) Any such court within the jurisdiction of which
22 such inquiry is carried on may, in case of contumacy or
23 refusal to obey a subpoena issued to any person, issue an order
24 requiring such person to appear before the Secretary or to
25 produce documentary evidence if so ordered, or to give evi-

1 dence touching the matter in question; and any failure to
2 obey such order of the court may be punished by such court
3 as a contempt thereof.

4 “(d) Witnesses summoned before the Secretary shall
5 be paid the same fees and mileage that are paid witnesses
6 in the courts of the United States, and witnesses from
7 depositions are taken and the persons taking the same shall
8 severally be entitled to the same fees as are paid for like
9 services in the courts of the United States.

10 “(e) Any person who shall neglect or refuse to attend
11 and testify, or to answer any lawful inquiry, or to produce
12 documentary evidence, if in his power to do so, in obedience
13 to the subpoena or lawful requirement of the Secretary, shall
14 be guilty of a misdemeanor, and upon conviction thereof be
15 subject to the penalties set forth in section ~~45~~ 14 of this Act.

16 “(f) No person shall be excused from attending and
17 testifying or from producing documentary evidence before
18 the Secretary, or in obedience to the subpoena of the Secre-
19 tary, or in any cause or proceeding, criminal or otherwise,
20 based upon or growing out of any alleged violation of this
21 Act, or of any amendments thereto, on the ground or for the
22 reason that the testimony or evidence, documentary or other-
23 wise, required of him may tend to incriminate him or subject
24 him to a penalty or forfeiture; but no individual shall be
25 prosecuted or subjected to any penalty or forfeiture for or on

1 account of any transaction, matter, or thing concerning which
2 he is compelled, after having claimed his privilege against
3 self-incrimination, to testify or produce evidence, documen-
4 tary or otherwise, except that any individual so testifying
5 shall not be exempt from prosecution and punishment for
6 perjury committed in so testifying.

7 “(g) Any officer or employee of the Department of
8 Agriculture who shall make public any information obtained
9 under this Act by the Department of Agriculture, without its
10 authority, unless directed by the court, shall be guilty of a
11 misdemeanor, and upon conviction thereof be subject to the
12 penalties set forth in section 14 of this Act.

13 “(h) The United States district courts, the District
14 Court of Guam, the District Court of the Virgin Islands, the
15 highest court of American Samoa, and the United States
16 courts of the other territories and possessions of the United
17 States shall have jurisdiction in cases arising under this Act.

18 “RELATION TO STATE AND LOCAL LAWS; SEPARABILITY
19 OF PROVISIONS

20 “SEC. 18. (a) No State or subdivision thereof may re-
21 quire the inspection or description in accordance with any
22 standards of kind, class, quality, condition, or other char-
23 acteristics of grain as a condition of shipment, or sale, of such
24 grain in interstate or foreign commerce, or require any
25 license for, or impose any other restrictions upon, the per-

1 formance of any official inspection function under this Act
2 by official inspection personnel. Otherwise nothing in this
3 Act shall invalidate any law or other provision of any State
4 or subdivision thereof in the absence of a conflict with this
5 Act.

6 “(b) If any provision of this Act or the application
7 thereof to any person or circumstances is held invalid, the
8 validity of the remainder of the Act and of the application
9 of such provision to other persons and circumstances shall not
10 be affected thereby.

11 “APPROPRIATIONS

12 “SEC. 19. There are hereby authorized to be appropri-
13 ated such sums as are necessary to carry out the provisions
14 of this Act to the extent that financing is not obtaining from
15 the fees and sale of samples as provided for in section 7 of
16 this Act.

17 “EFFECTIVE DATE

18 “SEC. 20. This Act shall become effective one hundred
19 and eighty days after enactment hereof, except that the re-
20 peal of the mandatory inspection provisions with respect to
21 grain shipped or delivered for shipment in interstate com-
22 merce shall become effective thirty days after enactment
23 hereof and the provisions of paragraphs 6 (a) and 13 (a)
24 (5) of this Act shall then become effective with respect to
25 such grain.”

90TH CONGRESS
2D SESSION

H. R. 15794

[Report No. 1344]

A BILL

To provide for United States standards and a national inspection system for grain, and for other purposes.

By Mr. PURCELL

MARCH 6, 1968

Referred to the Committee on Agriculture

MAY 1, 1968

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued May 15, 1968
For actions of May 14, 1968
90th-2nd; No. 82

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HIGHLIGHTS: House passed Public Law 480 bill. House Rules Committee cleared grain-standards, emergency-loans and emergency-credit revolving fund bills. Senate subcommittee approved bills on Kerr Memorial, Cradle of Forestry, and watershed construction. Rep. St. Onge introduced and discussed egg marketing bill.

HOUSE

1. PUBLIC LAW 480. Passed S. 2986, to extend the Agricultural Trade Development and Assistance Act of 1954 (pp. H3715-16, H3721-39), with an amendment to substitute the language of H. R. 16165, which was passed earlier with the following amendments: By Rep. Findley, that "the Commodity Credit Corporation shall not finance the sale and export of agricultural commodities under this Act for any exporter which in the 6 months immediately preceding the application for such financing has engaged in any sales, trade, or commerce with North Vietnam, or with any resident thereof..." (pp. H3730-32), and by Rep. Steiger, Wisc.,

370-21, to "provide that the ratio of the value of dairy products exported under this act to the value of all agricultural products so exported is approximately the same as the ratio of the value of dairy products produced in the United States to the value of all agricultural products produced in the United States" (pp. H3734-38). Rejected an amendment by Rep. Findley to protect the interests of small businesses participating under the act (pp. H3732-4). For other provisions see Digest 70. H. R. 16165 was tabled.

2. ~~GRAINS; POULTRY; CREDIT; CONSERVATION.~~ The Rules Committee reported resolutions for the consideration of H. R. 15794, to provide for U. S. standards and a national inspection system for grain; H. R. 16363, to clarify and otherwise amend the Poultry Products Inspection Act; H. J. Res. 1227, to authorize the temporary funding of the emergency credit revolving fund; and H. R. 8578, to amend the Land and Water Conservation Fund Act. p. H3769
3. ~~TAXATION; EXPENDITURES.~~ Rep. Joelson inserted a copy of the letter he sent the President asking for a list of the programs to be included in the proposed \$6 billion reduction to assist him in determining his vote on the surcharge-expenditure cut conference report. p. H3715
Rep. Vanik stated he hoped the President "will not capitulate to the pressures and take a surtax on the basis of a \$6 billion cut in spending." p. H3746
Rep. Curtis discussed the tax increase and expenditure cut bill and questioned whether "this package will help in cutting back on inflation." pp. H3748-54
4. ~~WATER POLLUTION.~~ Rep. Blackburn discussed the provisions of his bill to provide a tax credit to industries which would construct water pollution control facilities. pp. H3757-8
5. ~~RECLAMATION.~~ Rep. Johnson, Calif., discussed some of the issues "which will have a direct bearing" on the scheduled debate on the Colorado River Basin bill. pp. H3739-44
6. ~~OPINION POLL.~~ Rep. Burke, Fla., inserted the results of a questionnaire including items of interest to this Dept. pp. H3758-9
7. ~~FOREIGN AFFAIRS.~~ Rep. Fascell inserted the exchange of remarks between the President and the Secretary General of the OAS in which they discussed the Alliance for Progress, the Inter-American Development Bank, the Central American Common Market and Latin American Free Trade Association. pp. H3767-8
8. ~~FOREIGN AID.~~ Rep. Berry stated that he had submitted to the House Foreign Affairs Committee a proposed substitute for H. R. 15263, the proposed Foreign Assistance Act of 1968. pp. H3763-4
9. ~~WATER QUALITY.~~ Rep. Cleveland inserted comments of the New England Interstate Water Pollution Control Commission warning of "drastic consequences" if the proposed water quality improvement bill is passed. pp. H3762-3

CONSIDERATION OF H.R. 8578

MAY 14, 1968.—Referred to the House Calendar and ordered to be printed

Mr. PEPPER, from the Committee on Rules
submitted the following

REPORT

[To accompany H. Res. 1170]

The Committee on Rules, having had under consideration House Resolution 1170, report the same to the House with the recommendation that the resolution do pass.



House Calendar No. 245

90TH CONGRESS
2D SESSION

H. RES. 1171

[Report No. 1387]

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1968

Mr. YOUNG, from the Committee on Rules, reported the following resolution;
which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That upon the adoption of this resolution it
2 shall be in order to move that the House resolve itself into
3 the Committee of the Whole House on the State of the Union
4 for the consideration of the bill (H.R. 15794) to provide for
5 United States standards and a national inspection system for
6 grain, and for other purposes. After general debate, which
7 shall be confined to the bill and shall continue not to exceed
8 one hour, to be equally divided and controlled by the chair-
9 man and ranking minority member of the Committee on
10 Agriculture, the bill shall be read for amendment under the
11 five-minute rule. At the conclusion of the consideration of

1 the bill for amendment, the Committee shall rise and report
2 the bill to the House with such amendments as may have
3 been adopted, and the previous question shall be considered
4 as ordered on the bill and amendments thereto to final pas-
5 sage without intervening motion except one motion to
6 recommit.

House Calendar No. 245

90TH CONGRESS
2^D SESSION

H. RES. 1171

[Report No. 1387]

RESOLUTION

Providing for consideration of H.R. 15794, to
provide for United States standards and a
national inspection system for grain, and for
other purposes.

By Mr. YOUNG

May 14, 1968

Referred to the House Calendar and ordered to be
printed

House

May 29, 1968

Sen. Percy expressed disappointment that committees of both Houses "postponed the consideration of the International Development Association - IDA - authorization bill." pp. S6680-1

11. ARTS AND HUMANITIES. Agreed to the conference report on H. R. 11308, to amend the National Foundation on the Arts and Humanities Act to authorize funding through fiscal year 1970 and make certain other changes of a technical nature. pp. S6658-9
 12. CONGRESS. Sen. Mansfield assessed the progress of Congress this session and itemized "that which we must do before adjourning sine die." pp. S6660-6
 13. WEATHER. Concurred in the House amendment to S. Con. Res. 67, to provide that the U. S. shall participate in the world weather program and that the President shall transmit to the Congress before March 1 of each year a statement of the proposed participation. p. S6668
 14. HOUSING. Sen. Stennis explained his reason for voting against the housing bill. pp. S6668-9
 15. LEGISLATIVE PROGRAM. Sen. Mansfield announced that when the Senate returns next week they will consider the Export-Import Bank loan bill, NASA authorization bill and the "special drawing rights measure." p. S6666
-
- HOUSE
16. GRAIN. Passed as reported H. R. 15794, to provide for U. S. standards and a national inspection system for grain (pp. H4435-41). The rule under which the bill was considered was adopted earlier (p. H4434).
 17. WILDLIFE. ^{The Merchant Marine and Fisheries Committee} reported with amendment H. R. 11026, to amend section 3 of the Act of September 15, 1960, for the purpose of facilitating the conduct of the fish and wildlife conservation and rehabilitation program authorized by that act (H. Rept. 1508). p. H4454
 18. TAXATION; EXPENDITURES. Rejected, 136-259, a motion by Rep. Burke, Mass., to instruct the House conferees on H. R. 15414, the tax adjustment bill, to insist on an expenditure reduction of \$4 billion for fiscal year 1969 instead of the \$6 billion cut voted by the Senate. pp. H4421-34
 19. HEALTH; SAFETY. A subcommittee of the Education and Labor Committee approved for full committee consideration H. R. 14816, amended, the occupational health and safety bill. p. D499
 20. MEAT INSPECTION. Rep. Dole alleged that USDA used underhanded tactics to collect data presented to the Agriculture Committee during hearings on the Federal Meat Inspection Act of 1967 and said "Today I have requested hearings by the Departmental Oversight Subcommittee of the House Agriculture Committee, of which I am the ranking minority member. The entire procedure used by the Department of Agriculture in collecting data used as evidence before Congress must be investigated." pp. H4449-50

21. LUMBER STANDARDS. Rep. Dingell inserted his press conference statement regarding lumber standards in which he stated it is his intention to hold hearings at which time he will ask the Department to explain its role in connection with lumber standards. pp. H4447-8
22. PERSONNEL. Rep. Reinecke summarized the provisions of his bill H. R. 460, to improve labor-management relations of the Federal service. p. H4449
23. HOUSING. Rep. Ryan spoke in support of his proposed legislation to aid persons displaced by Federally assisted programs and called on the Banking and Currency Committee to hold hearings on this subject. pp. H4451-2
24. TRADE; TRAVEL. Rep. Rooney, N. Y., called for creation of a trade-travel center in New York City. p. H4453
25. LEGISLATIVE PROGRAM. Rep. Albert announced the legislative program for the week of June 3, and listed items to be considered, including S. 1028, Federal employment conditions for former employees of agricultural county committees, with an open rule and 1 hour of debate; and H. R. 16363, the poultry products inspection bill, with an open rule and 2 hours of debate; and Rep. Mills said that the tax increase-expenditure reduction bill will not be considered before June 12. pp. H4420, H4442
26. ADJOURNMENT. Pursuant to H. Con. Res. 782, both Houses adjourned until Mon., June 3.

EXTENSION OF REMARKS

27. HUNGER. Rep. Ryan stated that the CBS documentary on hunger "showed and emphasized American poverty side by side with the enormous wealth that so many take for granted", and inserted an article giving a description both of the CBS program and its implications. pp. E4782-3
Rep. Cohelan inserted an article, "Is the Answer More Public Spending?", which concludes that this country must invest more in human capital. pp. E4794-5
Rep. Conte inserted an article, "If Speeches Could Feed the Hungry." p. E4816
Rep. Bob Wilson inserted an article, "Malnutrition and National Development." pp. E4860-3
28. WATER POLLUTION. Rep. Dingell commended Secretary Udall's "effective" job of implementing the water quality standards program. p. E4797
29. RURAL AREAS. Rep. Morris, N. Mex., praised Federal State, and local agencies in their efforts to "lift employment prospects of rural Americans." pp. E4811-3
30. COMMISSIONS; REPORTS. Rep. Curtis stated that executive commission studies serve admirably as a taking off point for public congressional studies, and that there is also reason for congressional committees to hold hearings on executive commission reports. pp. E4820-3

crisis. But no study is needed to change the most outrageous inequities. There are millionaires who pay absolutely no taxes, and new millionaires are being created by the unholy alliance of war profits and tax loopholes. This is happening while citizens across the country are struggling to care for their families symbolized by these poor camping beneath the Capitol. This is happening while the Citizens Board of Inquiry into Hunger and Malnutrition finds that ten million Americans are suffering from hunger, and twenty million more lack adequate diets.

We would accept a program if it increased revenue through tax reform and allocated it to urgent domestic needs. This could be done by closing major loop holes, imposing a minimum tax on the wealthy, and taxing excess corporate war profits.

We cannot support a tax package that continues the imbalance in our national priorities. The Conference Report says "Yes" to the war in Vietnam, and "No" to America's problems at home.

George E. Brown, Jr. (California), Phillip Burton (California), John Conyers, Jr. (Michigan), John G. Dow (New York), Don Edwards (California), Augustus F. Hawkins (California), Henry Helstoski (New Jersey), Robert W. Kastenmeier (Wisconsin), Benjamin S. Rosenthal (New York), William F. Ryan (New York).

Mr. BURKE of Massachusetts. Mr. Speaker, I move the previous question on the motion.

The SPEAKER. The gentleman from Massachusetts moves the previous question.

Mr. RYAN. Mr. Speaker.

The SPEAKER. As many as are in favor let it be known by saying "aye." As many as are opposed "no." In the opinion of the Chair, the "ayes" have it.

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from Michigan will state it.

Mr. GERALD R. FORD. Mr. Speaker, I was not entirely clear. Was that vote on the previous question or on the motion?

The SPEAKER. We are voting now on ordering the previous question. The "ayes" appear to have it.

The previous question was ordered.

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. RYAN. Mr. Speaker, I was on my feet and seeking recognition.

The SPEAKER. The Chair is recognizing the gentleman.

Mr. RYAN. To propound a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. RYAN. Mr. Speaker, if the previous question is voted down would it be in order to move that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 15414, be instructed not to agree to any limitation on budget outlays—expenditures and net lending—during the fiscal year ending June 30, 1969?

The SPEAKER. The Chair will state to the gentleman from New York in response to his parliamentary inquiry that if the previous question had been voted down any motion that is germane would be in order.

Mr. WAGGONER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from Louisiana will state his parliamentary inquiry.

Mr. WAGGONER. Mr. Speaker, should the previous question be voted down would the motion be open to a preferential motion to amend and would of necessity the time be controlled by those in opposition to the previous question?

The SPEAKER. The previous question has already been ordered. If it had not been ordered and voted down, the answer to the parliamentary inquiry of the gentleman from Louisiana would be in the affirmative.

Mr. WAGGONER. I thank the distinguished Speaker.

The SPEAKER. The question in on the motion.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 137, nays 259, not voting 37, as follows:

[Roll No. 159]

YEAS—137

Adams	Garmatz	Nedzi
Addabbo	Giammo	Nix
Albert	Gilbert	O'Hara, Mich.
Annuzio	Gonzalez	O'Konski
Ashley	Gray	O'Neill, Mass.
Barrett	Green, Pa.	Patman
Bingham	Griffiths	Patten
Boggs	Halpern	Pepper
Boland	Hansen, Wash.	Perkins
Bolling	Hathaway	Philbin
Brademas	Hays	Pickle
Brasco	Hechler, W. Va.	Podell
Brooks	Helstoski	Price, Ill.
Burke, Mass.	Hicks	Pucinski
Burton, Calif.	Holifield	Reid, N.Y.
Button	Holland	Resnick
Byrne, Pa.	Howard	Reuss
Carey	Irwin	Rhodes, Pa.
Casey	Jacobs	Rodino
Celler	Joelson	Ronan
Clark	Johnson, Calif.	Rooney, N.Y.
Cohelan	Jones, Ala.	Rooney, Pa.
Conte	Karsten	Rosenthal
Corman	Karth	Rostenkowski
Daddario	Kazen	Roush
Daniels	Kee	Ruppe
Dawson	Kelly	St Germain
de la Garza	King, Calif.	St. Onge
Dent	Kirwan	Scheuer
Diggs	Kluczynski	Sisk
Dingell	Kyros	Smith, Iowa
Donohue	Leggett	Staggers
Dulski	Long, Md.	Steed
Eckhardt	McCarthy	Sullivan
Edmondson	McFall	Teague, Tex.
Eilberg	Madden	Tenzer
Evans, Colo.	Mahon	Thompson, N.J.
Fallon	Matsunaga	Tiernan
Farbstein	Minish	Udall
Feighan	Mink	Van Deerlin
Flood	Moorhead	Vanik
Ford	Morgan	Vigorito
William D.	Moss	Wright
Fraser	Murphy, Ill.	Yates
Friedel	Murphy, N.Y.	Young
Gallagher	Natcher	Zablocki

NAYS—259

Abbott	Blanton	Clancy
Abernethy	Bolton	Clausen,
Adair	Bray	Don H.
Anderson, Ill.	Brinkley	Cleveland
Anderson, Tenn.	Brock	Collier
Andrews, N. Dak.	Broomfield	Colmer
Arends	Brotzman	Conable
Ashbrook	Brown, Mich.	Conyers
Aspinall	Brown, Ohio	Corbett
Ayres	Broyhill, N.C.	Cramer
Baring	Broyhill, Va.	Cunningham
Bates	Buchanan	Curtis
Battin	Burke, Fla.	Davis, Ga.
Belcher	Burleson	Davis, Wis.
Bennett	Burton, Utah	Delaney
Betts	Bush	Dellenback
Bevill	Byrnes, Wis.	Denney
Biester	Cabell	Derwinski
Blackburn	Cahill	Devine
	Cederberg	Dickinson
	Chamberlain	Dole

Dorn	Kornegay	Robison
Dow	Kupferman	Rogers, Colo.
Dowdy	Kuykendall	Rogers, Fla.
Downing	Kyl	Roth
Duncan	Laird	Roudebush
Edwards, Ala.	Landrum	Rumsfeld
Edwards, La.	Langen	Ryan
Erlenborn	Latta	Sandman
Esch	Lennon	Satterfield
Eshleman	Lipscomb	Saylor
Everett	Lloyd	Schadeberg
Fascell	Long, La.	Scherle
Findley	McClory	Schneebell
Fino	McCloskey	Schweiker
Fisher	McCulloch	Schwengel
Flynt	McDade	Scott
Foley	McDonald,	Shipley
Ford, Gerald R.	Mich.	Shriver
Fountain	McEwen	Sikes
Frelinghuysen	Macdonald,	Skubitz
Fulton, Pa.	Mass.	Slack
Fulton, Tenn.	MacGregor	Smith, Calif.
Fuqua	Machen	Smith, N.Y.
Galifianakis	Mailliard	Smith, Okla.
Gardner	Marsh	Snyder
Gathings	Martin	Springer
Gettys	Mathias, Calif.	Stafford
Gibbons	Mathias, Md.	Stanton
Goodell	Mayne	Steger, Ariz.
Goodling	Meeds	Steger, Wis.
Griffin	Michel	Stephens
Gross	Miller, Ohio	Stratton
Grover	Mills	Stuckey
Gubser	Minshall	Taft
Gude	Mize	Talcott
Gurney	Monagan	Taylor
Hagan	Montgomery	Teague, Calif.
Haley	Morris, N. Mex.	Thompson, Ga.
Hall	Morton	Thomson, Wis.
Halleck	Mosher	Tuck
Hamilton	Myers	Ullman
Hammer-	Nelsen	Vander Jagt
schmidt	Nichols	Waggoner
Hanley	O'Neal, Ga.	Waldie
Hanna	Ottinger	Walker
Hansen, Idaho	Passman	Wampler
Harrison	Pelly	Watkins
Harsha	Pettis	Watson
Harvey	Pike	Watts
Hébert	Pirnie	Whalen
Heckler, Mass.	Poage	Whalley
Henderson	Poff	Whitener
Herlong	Pollock	Whitten
Horton	Pool	Widnall
Hosmer	Price, Tex.	Wiggins
Hull	Pryor	Williams, Pa.
Hungate	Purcell	Willis
Hunt	Quile	Wilson, Bob
Hutchinson	Quillen	Winn
Ichord	Railsback	Wolff
Jarman	Rarick	Wyatt
Johnson, Pa.	Reid, Ill.	Wydler
Jonas	Reifel	Wyllie
Jones, N.C.	Reinecke	Wyman
Kastenmeier	Rhodes, Ariz.	Zion
Keith	Riegle	Zwach
King, N.Y.	Rivers	
Kleppe	Roberts	

NOT VOTING—37

Andrews, Ala.	Evins, Tenn.	O'Hara, Ill.
Ashmore	Green, Oreg.	Olsen
Bell	Hardy	Randall
Berry	Hawkins	Rees
Blatnik	Jones, Mo.	Roybal
Bow	Lukens	Selden
Brown, Calif.	McClure	Stubblefield
Carter	McMillan	Tunney
Clawson, Del.	May	Utt
Cowger	Meskill	White
Culver	Miller, Calif.	Wilson,
Dwyer	Moore	Charles H.
Edwards, Calif.	Morse, Mass.	

So the motion was rejected.

The Clerk announced the following pairs:

Mr. Blatnik for, with Mr. Bow against.
Mr. Roybal for, with Mr. White of Texas against.

Mr. Stubblefield for, with Mr. Hardy against.

Mr. Olsen for, with Mrs. May against.

Mr. Rees for, with Mr. Utt against.

Mr. Hawkins for, with Mr. Randall against.

Mr. Charles H. Wilson for, with Mr. Ashmore against.

Mr. Edwards of California for, with Mr. Evins of Tennessee against.

Mr. Brown of California for, with Mr. Andrews of Alabama against.

Mr. O'Hara of Illinois for, with Mr. Berry against.

Mr. Miller of California for, with Mr. McMillan against.
Mr. Culver for, with Mr. Del Clawson against.
Mr. Tunney for, with Mr. Meskill against.

Until further notice:

Mr. Selden with Mr. McClure.
Mr. Lukens with Mr. Moore.
Mrs. Dwyer with Mr. Cowger.
Mr. Morse of Massachusetts with Mr. Carter.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 15794, U.S. GRAINS STANDARD ACT

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1171 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1171

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15794) to provide for United States standards and a national inspection system for grain, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas is recognized for 1 hour.

Mr. YOUNG. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Ohio [Mr. LATTI], pending which I yield myself such time as I may consume.

(Mr. YOUNG asked and was given permission to revise and extend his remarks.)

Mr. YOUNG. Mr. Speaker, House Resolution 1171 provides an open rule with 1 hour of general debate for consideration of H.R. 15794 to provide for U.S. standards and a national inspection system for grain, and for other purposes.

H.R. 15794 would continue the present U.S. standards for grain, improve the national grain inspection system by authorizing additional inspection services under the act, eliminate certain requirements which appear to be a burden on interstate commerce and which are apparently no longer needed by the commercial grain trade, strengthen the requirements for export grain, and strengthen the prohibitions to further protect the integrity of the national grain inspection system. The bill would authorize the establishment of national standards similar to those established under the present act and would authorize the utilization of additional criteria in the standards for measuring characteristics of grain.

Mr. Speaker, I urge the adoption of House Resolution 1171 in order that H.R. 15794 may be considered.

(Mr. LATTI asked and was given permission to revise and extend his remarks.)

Mr. LATTI. Mr. Speaker, the purpose of the bill is to continue the present U.S. standards for grain, to improve the current national grain inspection system, which grades grain type and quality prior to shipment in interstate or foreign commerce, and generally to improve the system by removing some old requirements which are no longer applicable in today's market situation and to strengthen the prohibition against certain illegal acts relating to the incorrect labeling of grains for transit into the flow of commerce.

The Secretary of Agriculture is authorized to establish official grain standards. Any change proposed to such a standard after it is in effect will not take effect until 1 year after its adoption. All grain for export or moving in interstate commerce must be inspected for grade; this is done at the time of loading for shipment—not before. Inspection is to be made by persons licensed to do so by the Secretary. These may include State employees, employees of governmental agencies or of commercial enterprises. All must apply the standards promulgated by the Secretary. Licenses are for 3-year periods and at the expiration of such time a license must be reexamined to renew his license.

A list of prohibited acts is spelled out in section 13 of the bill. These include:

1. Knowingly mislabeling grain as to quality or forging an official inspection mark;
2. Knowingly use a false inspection mark;
3. Attempting to cause the issuance of a false inspection certificate;
4. Altering an official grain sample; or
5. Trying to improperly influence an inspector.

Penalties are imprisonment for up to 6 months or a fine of up to \$5,000 or both for a first offense, up to a year in prison and up to a \$5,000 fine for future offenses.

The authorization called for in the bill is for "such sums as are necessary." The Department of Agriculture estimates the annual cost at \$2,900,000.

The Department of Agriculture and the Bureau of the Budget support the bill. There are no minority views.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 16127, INCREASE OF CEILING ON NUMBER OF COAST GUARD OFFICERS

Mr. O'NEILL of Massachusetts. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1192 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1192

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the

Union for the consideration of the bill (H.R. 16127) to increase the limitation on the number of officers of the Coast Guard. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(Mr. O'NEILL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. O'NEILL of Massachusetts. Mr. Speaker, House Resolution 1192 provides an open rule with 1 hour of general debate for consideration of H.R. 16127 to increase the limitation on the number of officers for the Coast Guard.

H.R. 16127 would authorize an increase in the ceiling on Coast Guard officers from 4,000 to 5,000 by amending section 42 of title 14, United States Code.

In 1966, the limitation of Coast Guard officers was increased from 3,500 to 4,000. Since that time, the Coast Guard has been transferred into the Department of Transportation from the Treasury Department and some 18 officers are serving in various capacities within the Department. Also, since that time, jurisdiction over all large icebreakers has been transferred from the Navy to the Coast Guard and it has been necessary to provide crews for these vessels.

In addition, our operations have been stepped up in the Southeast Asia area, with the result that additional officers have been required there.

With these additional requirements, the presently authorized ceiling will be insufficient to accommodate the commissioning of all the graduates of the Coast Guard Academy this year.

Mr. Speaker, I urge the adoption of House Resolution 1192 in order that H.R. 16127 may be considered.

Mr. LATTI. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LATTI asked and was given permission to revise and extend his remarks.)

Mr. LATTI. Mr. Speaker, I agree with the statements which have been made by my friend, the gentleman from Massachusetts [Mr. O'NEILL]. However, I wish to point out the fact that there are 80 Coast Guard cutters now being used to patrol the waters off Vietnam, which represents another reason for the passage of this legislation.

The purpose of the bill is to authorize an increase in the current ceiling on U.S. Coast Guard officers from 4,000 to 5,000.

In 1966, when the current ceiling was set, it was anticipated that it would be adequate for about 5 years. Since that time, however, several unforeseen events have necessitated an increase. The Coast Guard has been transferred into the Department of Transportation and about 18 officers are on shore duty in the Department. More immediate is the fact that the Navy has transferred jurisdic-

tion over all large icebreakers to the Coast Guard; this necessitates more crews and officers for these ships.

The cost of the bill cannot be estimated because it is unknown now how much of this enlarged authorization will be funded.

The Department of Transportation supports the bill as does the Bureau of the Budget. There are no minority views.

Mr. Speaker, I have no further request for time. I reserve the balance of my time.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

U.S. GRAIN STANDARDS ACT

Mr. PURCELL. Mr. Speaker, I ask unanimous consent that the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes, be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 15794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Grain Standards Act, consisting of part B of "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved August 11, 1916 (39 Stat. 446, at 482), as amended (7 U.S.C. 71-87), is hereby amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'United States Grain Standards Act'.

"DECLARATION OF POLICY

"SEC. 2. Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, and to provide for an official inspection system for grain; with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated.

"DEFINITIONS

"SEC. 3. When used in this Act, except where the context requires otherwise—

"(a) the term 'Secretary' means the Secretary of Agriculture of the United States or his delegates;

"(b) the term 'Department of Agriculture' means the United States Department of Agriculture;

"(c) the term 'person' means any individual, partnership, corporation, association, or other business entity;

"(d) the term 'United States' means the States (including Puerto Rico) and the ter-

ritories and possessions of the United States (including the District of Columbia);

"(e) the term 'State' means only one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

"(f) the term 'interstate or foreign commerce' means commerce from any State to or through any other State, or to or through any foreign country;

"(g) the term 'grain' means corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of this Act.

"(h) the term 'export grain' means grain for shipment from the United States to any place outside thereof;

"(i) the term 'official inspection' means the determination and the certification, by official inspection personnel, of the kind, class, quality, condition, or quantity of sacks of grain, under standards provided for in this Act or, upon request of the interested person applying for inspection, other criteria approved by the Secretary under this Act (the term 'officially inspected' shall be construed accordingly);

"(j) the term 'official inspection personnel' means employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this Act; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports;

"(k) the term 'official inspection mark' means any symbol prescribed by regulations of the Secretary to show the official determination of the kind, class, quality, condition, or quantity of, or other facts relating to grain, under standards provided for in this Act or, upon request of the interested person applying for inspection, other criteria approved by the Secretary under this Act;

"(l) the term 'official grade designation' means a numerical or sample grade designation, specified in the standards provided for in this Act;

"(m) the term 'official inspection agency' means the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this Act;

"(n) the term 'official certificate' and 'official form' mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this Act;

"(o) the term 'official sample' means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term 'official sampling' shall be construed accordingly);

"(p) the term 'submitted sample' means a sample submitted by or for an interested person for official inspection, other than an official sample;

"(q) the term 'lot' means a specific quantity of grain identified as such;

"(r) the term 'interested person' means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

"(s) the verb 'ship' with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

"(t) the terms 'false', 'incorrect', and 'misleading' mean, respectively, false, incorrect, and misleading in any particular;

"(u) the term 'deceptive loading, handling, or sampling' means any manner of loading, handling, or sampling that deceives or tends to deceive official inspection personnel, as

specified by regulations of the Secretary under this Act.

"STANDARDS

"SEC. 4. (a) The Secretary is authorized to investigate the handling, grading, and transportation of grain and to fix and establish standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary is authorized to amend or revoke such standards whenever the necessities of the trade may require.

"(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

"OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN EXPORT GRAIN

"SEC. 5. Whenever standards are effective under section 4 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain that is sold, offered for sale, or consigned for sale by grade, unless such lot is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded abroad, or while it is in, the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided, however,* That the Secretary may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments.

"REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

"SEC. 6. (a) Whenever standards are effective under section 4 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided, That,* with respect to interstate commerce, the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other factor information shall not be deemed to be a description of grain as being of any grade.

"(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

**"OFFICIAL INSPECTION AUTHORITY AND
FUNDING**

"SEC. 7. (a) The Secretary is authorized to cause official inspection under the standards provided for in section 4 of this Act to be made of all grain required to be officially inspected as provided in section 5 of this Act, in accordance with such regulations as he may prescribe.

"(b) The Secretary is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States or with respect to United States grain in Canadian ports under standards provided for in section 4 of this Act, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, condition, or quantity of, or other facts relating to, grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 2 of this Act.

"(c) The regulations prescribed by the Secretary under this Act shall include provisions for reinspections and appeal inspections; cancellation of certificates superseded by reinspections and appeal inspections. The Secretary may provide by regulation that samples obtained by or for employees of the Department of Agriculture for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).

"(d) Certificates issued and not canceled under this Act shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

"(e) The Secretary may, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated total cost of official inspection except when the inspection is performed by employees of an official inspection agency. The fees authorized by this paragraph shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Department of Agriculture incident to the performance of appeal and Canadian port inspection services for which the fees are collected, including supervisory and administrative costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available, without fiscal year limitation, for the expenses of the Department of Agriculture incident to providing official inspection services.

"(f) Not more than one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area.

"LICENSES AND AUTHORIZATIONS

"SEC. 8. (a) The Secretary is authorized to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official inspection agency to perform all or specified functions in official inspection; to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports; and to license any other competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture. No person shall perform any official inspection functions for purposes of this Act unless he holds an unsuspended and un-

revoked license or authorization from the Secretary under this Act.

"(b) All classes of license issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official inspection agency or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: *Provided further*, That subject to paragraph (c) of this section, such license shall be reinstated if the licensee is employed by an official inspection agency or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

"(c) The Secretary may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Department of Agriculture, to perform any official inspection function under this Act.

"(d) Persons employed by an official inspection agency and persons performing official inspection functions under contracts with the Department of Agriculture shall not, unless otherwise employed by the Federal Government, be deemed to be employees of the Federal Government of the United States.

**"REFUSAL OF RENEWAL, OR SUSPENSION OR
REVOCATION OF LICENSES**

"SEC. 9. The Secretary may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has otherwise inspected grain improperly under this Act, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the regulations prescribed or instructions issued to him by the Secretary under this Act. The Secretary may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Secretary deems such action to be in the best interests of the official inspection system under this Act.

"REFUSAL OF OFFICIAL INSPECTION

"SEC. 10. (a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection otherwise available under the Act with respect to any grain offered for inspection, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, holder, or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof) has committed any repeated or flagrant violation of section 14 of this Act, or that official inspection has been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing official inspection with respect to such grain would be inimical to the integrity of the official inspection service.

"(b) For purposes of paragraph (a) of this section, a person shall be deemed to be

responsibly connected with a business if he was or is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

"(c) Before official inspection is refused to any person under paragraph (a), such person shall be afforded opportunity for a hearing.

**"PROHIBITION ON CERTAIN CONFLICTS OF
INTEREST**

"SEC. 11. No person licensed or authorized by the Secretary to perform any official inspection function under this Act, or employed by the Secretary in otherwise carrying out any of the provisions of this Act, shall during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: *Provided, however*, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this Act.

"RECORDS

"SEC. 12. (a) Every official inspection agency and every person licensed to perform any official inspection function under this Act shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this Act.

"(b) Every official inspection agency required to maintain records under this section shall keep such records for a period of two years after the inspection or transaction, which is the subject of the record, occurred: *Provided, however*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to said two-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

"(c) Every official inspection agency required to maintain records under this section shall permit any authorized representative of the Secretary to have access to, and to copy, such records at all reasonable times.

"PROHIBITED ACTS

"SEC. 13. (a) No person shall—

"(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official inspection mark;

"(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official inspection mark, or knowingly possess, without promptly notifying the Secretary or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official inspection certificate or other official form, or any device for making any official inspection mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official inspection mark without promptly giving such notice;

"(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, or sampling

of grain, or submitting grain for official including but not limited to deceptive loading, handling, inspection knowing that it has been deceptively loaded, handled, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling;

"(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

"(5) knowingly use any official grade designation or official inspection mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container and the grain was found to qualify for such designation or mark;

"(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this Act;

"(7) improperly influence, or attempt to improperly influence, any official inspection personnel or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;

"(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;

"(9) falsely represent that he is licensed or authorized to perform an official inspection function under this Act;

"(10) use any false or misleading means in connection with the making or filing of an application for official inspection; or

"(11) violate any provision of section 5, 6, 8, 11, or 12 of this Act.

"(b) No person licensed or authorized to perform any function under this Act shall—

"(1) commit any offense prohibited by subsection (a);

"(2) knowingly perform improperly any official sampling or other official inspection function under this Act;

"(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

"(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

"(c) An offense shall be deemed to have been committed knowingly under this Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

"PENALTIES

"SEC. 14. (a) Any person who commits any offense prohibited by section 13 shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than six months, a fine of not more than \$3,000 or both such imprisonment and fine; but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine.

"(b) Nothing in this Act shall be construed as requiring the Secretary to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"RESPONSIBILITY FOR ACTS OF OTHERS

"SEC. 15. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the

scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

"GENERAL AUTHORITIES

"SEC. 16. The Secretary is authorized to conduct such investigations, hold such hearings, require such reports from any official inspection agency or any person, and prescribe such rules and regulations as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 or 10 of this Act for refusal to renew, or for suspension or revocation of, a license, or for refusal of official inspection service not required by section 5 of this Act, shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5, United States Code.

"ENFORCEMENT PROVISIONS

"SEC. 17. (a) For the purposes of this Act, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, and may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena the Secretary may invoke the aid of any court designated in paragraph (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

"(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(d) Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

"(e) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 15 of this Act.

"(f) No person shall be excused from attending and testifying or from producing documentary evidence before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him

may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(g) Any officer or employee of the Department of Agriculture who shall make public any information obtained under this Act by the Department of Agriculture, without its authority, unless directed by the court, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

"(h) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this Act.

"RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

"SEC. 18. (a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon, the performance of any official inspection function under this Act by official inspection personnel. Otherwise nothing in this Act shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this Act.

"(b) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act to the extent that financing is not obtaining from the fees and sale of samples as provided for in section 7 of this Act.

"EFFECTIVE DATE

"SEC. 20. This Act shall become effective one hundred and eighty days after enactment hereof, except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof and the provisions of paragraphs 6(a) and 13(a) (5) of this Act shall then become effective with respect to such grain."

With the following committee amendments:

On page 10, line 15, starting after the word "into", strike out the remainder of that sentence on lines 15 through 8, and insert in lieu thereof the following: "the United States Treasury at miscellaneous receipts."

On page 12, line 6, strike the word "or".

On page 13, line 18, strike out the word "committee" on line 18, and insert in lieu thereof the words "been convicted of".

On page 13, line 19, strike out the words "repeated or flagrant".

On page 13, line 19, strike out the numeral "14" and insert in lieu thereof the numeral "13".

On page 16, lines 24 and 25, strike out both of such lines in their entirety and insert in lieu thereof the following: "including but not limited to deceptive loading, han-

dling, or sampling of grain, or submitting grain for official".

On page 18, line 7, delete the word "and" and insert in lieu thereof the word "an".

On page 22, line 8, strike the numeral "15" and insert in lieu thereof the numeral "14".

On page 24, line 7, after the word "Act", insert a period and strike the remainder of line and all of lines 8 and 9.

The committee amendments were agreed to.

Mr. PURCELL. Mr. Speaker, I move to strike the last word.

(Mr. PURCELL asked and was given permission to revise and extend his remarks.)

Mr. PURCELL. Mr. Speaker, it is a pleasure to be able to present this legislation here today.

H.R. 15794 represents a modification of the proposal presented by the administration. Its major thrust is to bring our present Grain Standards Act, passed in 1916 in line with the many changes that have occurred in the grain business during the past 50 years. At the same time, it permits maximum utilization of facilities and equipment with a minimum of costs, delay and inconveniences, without diminishing quality standards of grain in either domestic or foreign commerce.

The action of the committee rewrites and modernizes the Grain Standards Act of 1916, by making several basic changes from the present law.

First, permissive, or voluntary grading on grain shipped in commerce within the United States would be allowed. As in the past, mandatory inspection of all grain shipped to a point outside of the United States is still required.

The use of modern mechanical and electronic grain-sampling equipment would be permitted.

There would be a revision of licensing regulations for inspectors under this act. Persons qualifying to be grain inspectors would be licensed by the Secretary for 3-year renewable periods.

Additional enforcement provisions authorizing the Secretary to refuse or renew licenses, to have access to certain records, and to refuse to provide grain inspection under certain circumstances are also provided, in order to guard against fraudulent or dishonest acts on the part of unscrupulous members of the grain trade and others who affect this vital segment of our national economy.

In short, what this bill does is to provide for continuation of the present system of U.S. standards for grain, while improving the national grain inspection system by authorizing additional inspection services under the act, eliminating certain requirements which appear to be a burden on interstate commerce and which are apparently no longer needed by the commercial grain trade. There are also provisions for strengthening the requirements for export grain.

I think, Mr. Speaker, that it would be in order to mention a few things for purpose of background that should be taken into account by my colleagues as they pass on the merits of this legislation.

It is presently, and has been the practice since enactment of our present law in 1916, to require grain which is shipped

in interstate commerce to be inspected by licensed grain inspectors who customarily are employees of a private inspection agency. The inspection is performed to ascertain the quality, kind, and grade of grain that is being shipped, and is not an inspection for purposes of ascertaining wholesomeness or suitability for human consumption. This latter is a matter that is handled under the authority of the Food and Drug Administration.

The inspection results determine a grade for the carload of grain, and this grade is recognized as definitive of the class of grain that is being sold and transported. If contested, the initial inspection can be appealed.

At the time that the original law went into effect, there was a distinct need for the protections that mandatory inspection of grain offered the buyer. Federally required inspection insured that no buyer or seller could be billed through mislabeling of the grain. He was being insured that what was traded was actually of the same quality as was being contracted for.

Since the present Grain Standards Act was passed in 1916, grain merchandising practices have changed greatly. Domestic traders are more knowledgeable, and specification buying is more common.

The general feeling, both among the grain trade, and the Department of Agriculture which administers the present law, is that there is no logical justification for continuing the requirement that grain sold by grade in domestic commerce must be officially inspected. The needs of the trade, rather than Federal law, should determine when official grain grades and inspection are used for such commerce. This procedure is now the case for rice, beans, eggs, dairy products, fruits, vegetables, and most agricultural commodities.

In addition, since the act was passed, grain transportation methods have also changed greatly. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. Official inspection of lots of grain such as these is apparently not desired, and, frankly, is not obtained by the trade even though official inspection of much of this grain is technically required by the present act.

None of us here, Mr. Speaker, want to continue to be party to keeping in effect a law that is basically unenforceable. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandising the grain, and would apparently serve no useful purpose. Furthermore, it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under point-to-point rates.

There is another point that needs to be made about the advantage of going to permissive inspection of grain shipped within domestic markets. During examination of this legislation before the Subcommittee on Livestock and Grains, which I have the honor to chair, the In-

terstate Commerce Commission supported this bill as an approach toward easing another problem that exists in our transportation network—this is the problem that occurs during peak periods of rail transportation of grain, known as a "boxcar shortage." In a communication to the subcommittee, the ICC indicated that considerable delays occur in shipment, due to the holding of grain for inspection. The Commission has also found, in their investigations, that grain inspection facilities are not even remotely adequate to meet peak receipts—resulting, I am sorry to say, in many cars being held much longer than they should at terminals while awaiting inspection.

The Interstate Commerce Commission, accordingly felt that the latitude given under this bill to develop and promulgate new methods for the inspection of grain, chiefly through mechanical sampling devices, would result in a substantial reduction of the number of car-days lost by cars held for inspection under present procedures.

Of course, Mr. Speaker, this bill does more than do away with the mandatory requirement of inspection for grain. In fact, this bill could actually be described as a thorough overhaul of our present system of grading, and providing for the orderly marketing of grain.

The other changes that are embodied can best be described as technical ones, relating to the actual inspection procedures themselves.

Naturally, the bill that is before you has not been created out of a vacuum. This bill has been subjected to an intense set of hearings during its examination: two full sets of hearings before the Subcommittee on Livestock and Grains, and additional hearings before the full committee. During all stages, objections were carefully noted, and procedures were adopted which provided the appropriate safeguards needed for administration of the system the bill envisions, at the same time building legislation that was "liveable" from the standpoint of the grain trade. The complete agreement among members of the committee as to the value of the bill that is before you is evidenced by the fact that the bill was unanimously reported from both the Subcommittee on Livestock and Grains, and the full Committee on Agriculture.

Mr. Speaker, this represents vital legislation to update our present grain standards system, and deserves the full support of every Member of this body. I will be glad to answer any questions that my colleagues have regarding the import of this bill.

Thank you, Mr. Speaker.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I am glad to yield to the distinguished gentleman from Texas, the chairman of the Committee on Appropriations.

(Mr. MAHON asked and was given permission to revise and extend his remarks.)

Mr. MAHON. In reading through the language of the bill, I call the gentleman's attention to the provision in section 12(b), where it states, and I quote:

That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary shall prescribe.

It has been called to my attention that a number of inspection agencies have expressed a great deal of concern over the wording of that section, due to the undue burden and strain on storage facilities that would occur in the event that the Department of Agriculture chooses to require these grain samples to be maintained for a full 90 days. In a volume operation such as that conducted by many of these exchanges, these samples will quickly accumulate, creating storage problems, and additional expense to comply with such a requirement.

Accordingly, I want to inquire of the gentleman, as author of the bill before us, and as chairman of the subcommittee examining this legislation, whether or not it is the intent of this bill that the grain samples will be maintained for a full 90 days? I hope the gentleman will clarify the whole matter.

Mr. PURCELL. I thank the gentleman for raising this point, and I will be happy to clarify what is involved.

The 90-day figure referred to in section 12(b) represents a limitation for the period that the grain sample can be required to be maintained. Since the legislation also deals with export grain, it was necessary to use a longer period than would be necessary for samples of grain shipped within the United States. There is little reason for requiring a sample to be kept more than a limited time after the arrival of the grain at its destination, and naturally, this will be a function of the distance the grain is to be transported, and the mode of transportation.

It is the intent of the bill that the Secretary will study the transportation statistics, and provide reasonable figures for retention of the sample which should be worked out with the grain industry itself. Certainly there would be no call for shipments of grain via barge or rail to be maintained for 90 days. A reasonable figure, in view of the needs of the trade, and the need to always insure the orderly marketing of grain would be 45 days for shipment by barge, and 15 days for truck or rail shipment. There would certainly be no need to require the sample to be kept beyond these limitations, except in the most peculiar circumstances.

In order that factors that would affect the ultimate decision on this matter might be more readily available, I asked the Department of Agriculture to comment on this problem. I have with me a letter from Mr. George Grange, Deputy Administrator for Marketing Services, indicating what factors will influence the final decision, which would be within the guidelines I have mentioned.

At this point, I insert Mr. Grange's letter in the RECORD:

U.S. DEPARTMENT OF AGRICULTURE,
CONSUMER AND MARKETING SERVICE,
Washington, D.C., May 23, 1968.

HON. GRAHAM PURCELL,
House of Representatives.

DEAR MR. PURCELL: This is in response to your request for further details concerning the Department's plans for implementing the provision in H.R. 15794 under which in-

spection agencies would be required to maintain file samples of grain for a period of time not in excess of 90 days.

Our grain inspection officials intend to require that the file samples be retained until normal transit time to destination and normal unloading time have expired. This will give inspectors an opportunity to check the file sample whenever there are complaints or questions concerning the initial certification. If the grain dealers are to trade on the basis of U.S. grades and official inspection certificates, they should have this opportunity for review of file samples while the transaction is still in process if the service is to be of maximum usefulness.

The retention time would vary dependent upon destination and mode of transportation. Domestic shipments by truck and rail would require the shortest time and export shipments the longest.

The retention times would be part of revised regulations which would not become effective until 180 days after enactment of H.R. 15794. These regulations, under the Administrative Procedures Act, would involve the issue of a rulemaking proposal and consideration of views and comments from interested persons prior to final promulgation.

We believe that reasonable and realistic retention periods for grain samples can be established which will meet the needs of the grain industry and, at the same time, will not overtax the facilities of Federal, State, or private grain inspection offices.

We hope that this information provides the additional details on this matter which you desired.

Sincerely yours,

G. R. GRANGE,
Deputy Administrator, Marketing Services.

I hope that this helps answer the gentleman's question. This bill has been carefully worked out in order to meet the needs of all, but occasionally there may be questions still to be answered. In a similar vein, there was a question raised as to whether or not cotton seed is included under this bill. It is not.

I would also hope that members of the grain trade are aware of the outstanding job that my distinguished colleague has done in calling this problem to our attention. I learned immediately after coming to Congress that when he speaks, all within the sound of his voice should listen. I know of no man for whom I have greater respect.

Mr. BELCHER. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the distinguished minority leader of our Agricultural Committee.

Mr. BELCHER. I thank the gentleman for yielding, and I am glad that the gentleman from Texas clarified this matter, because to maintain these samples for 90 days would in some instances be almost impossible. In Enid, Okla., for example, they have unloaded as many as 2,177 carloads of wheat and sampled them in a 21-hour period, and the gentleman can see how many samples would be needed, as the grain inspector at Enid, Okla., described it to me. He said that we would have to build another warehouse just to store these samples. So I am glad the gentleman has gotten this matter cleared up, because, as I say, it would be an absolute impossibility to keep all the samples for 90 days.

Mr. PURCELL. That is correct, and I wish to assure the gentleman from Oklahoma, just as I have endeavored to assure the gentleman from Texas [Mr. MAHON]

that after passage of this bill it will take 180 days before it goes into effect. The Department of Agriculture assures me that they will hold hearings and make detailed studies as to the practical length of time in which to keep these grain samples. And, as I say, I am sure it will be in line with the good judgment of the trade itself.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. PURCELL. Mr. Speaker, I yield myself 5 additional minutes.

Mr. KLEPPE. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I am happy to yield to the gentleman from North Dakota.

Mr. KLEPPE. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the distinguished chairman of the agriculture subcommittee a question concerning two paragraphs which were inadvertently left out of the Agriculture Committee's report on this bill.

Did not the committee agree, Mr. Speaker, that the language of section 18 of this bill will not invalidate State warehouse laws requiring grain received in or delivered out of terminal warehouses to be inspected, and did not the committee agree to include a paragraph to this effect in the committee report?

Mr. PURCELL. The gentleman's statement is indeed correct. The committee agreed to include those exact words in the report on the bill, but due to a technical oversight they were not actually printed in the report.

The committee intended that the legislation should not invalidate State warehouse laws.

Mr. KLEPPE. Did not the committee also agree, Mr. Speaker, that the language in section 7 of this bill exempts from inclusion in fees assessed by an official inspection agency—such as a State—the charges for Federal supervisory and administrative costs? And did not the committee agree to include a paragraph to this effect in the committee report?

Mr. PURCELL. The gentleman from North Dakota is again correct. The committee agreed to include those exact words in the report on the bill, but they were not actually printed. It was the committee's intention to incorporate both of these statements in the committee report. It has never been the intent of the committee that Federal supervisory and administrative costs be paid from these fees, but rather that they be paid from general revenues.

Mr. KLEPPE. I want to thank my distinguished chairman of the subcommittee for this clarification and thank him for yielding to me.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I am glad to yield to the gentleman.

Mr. WRIGHT. I would simply like to commend the distinguished author of the bill and chairman of the subcommittee and thank him for his clarification respecting the retaining of grain samples for not exceeding 90 days.

This clarification is greatly reassuring. It is a matter about which the Fort Worth grain exchange also had expressed

some concern, and I appreciate the gentleman's clarification.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the gentleman.

Mr. PUCINSKI. Would the gentleman explain to me whether this legislation will in any way affect adversely or otherwise the dealing in futures in the commodity exchanges where you have the Secretary setting different standards on grain and setting up different criteria?

Will this have any long range effect on the whole commodities market?

Mr. PURCELL. It is my judgment that this will not have any effect on the futures market in the grain trade. In fact, the major effect of the bill is upon cash sales.

This topic, or this area of discussion, has not been brought up by any of those in the trade, that I have any knowledge of, and I feel perfectly safe in assuring the gentleman that to my knowledge this will have no effect one way or the other on the grain futures business.

Mr. PUCINSKI. I do not participate in grain futures so I am not too familiar with this operation. But since Chicago is a great center in the whole feed-grain business, I am just concerned as to whether or not this is going to have some effect in the long run when we do give the Secretary here, as I read this legislation, the authority to change the standards from time to time and set up new rules and new regulations and new criteria for measuring quality.

I wonder if that has all been discussed during the hearings and during the deliberations on this legislation?

Mr. PURCELL. The changing of grain standards by the Secretary has been discussed in great detail. Briefly stated, it just means this—as better qualities of grain are produced by our farmers, the better grades will remain in the better classifications.

To answer the gentleman's question further, I can state that the Chicago Board of Trade has not indicated that they are against this bill. I feel confident there would be no danger of damaging futures trading in grain.

Mr. PUCINSKI. If the gentleman will yield further so as to establish some understanding here, the bill in section 4(a) on page 6 reads as follows:

"SEC. 4. (a) The Secretary is authorized to investigate the handling, grading, and transportation of grain and to fix and establish standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary is authorized to amend or revoke such standards whenever the necessities of the trade may require.

I am not quite sure—how does all this affect the dealing in futures?

Mr. PURCELL. These changes would come about only after coordination with the trade itself.

To go back to my statement a moment ago, the only example I can think of quickly is that if in the future we have an unquestionably better quality of wheat, corn, or whatever the grain might be, then in order to have U.S. No. 1 corn

truly be the best corn that we produce, it would be my belief that the trade in coordination with the Department of Agriculture would not want to maintain the present grade, which might not be the best quality at that time. But this would not come about merely by an arbitrary ruling of the Secretary.

Mr. PUCINSKI. I thank the gentleman.

Mr. KLEPPE. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the gentleman.

(Mrs. MAY (at the request of Mr. KLEPPE) was given permission to extend her remarks at this point in the RECORD.)

Mrs. MAY. Mr. Speaker, the legislation before us would provide needed modernization of the Grain Standards Act of 1916. In the 52 years that have elapsed since this law was enacted, grain merchandising practices have changed greatly. Specification buying is more common, and reference to official grades and inspection is often just not desired in domestic commercial transactions. There is merit in the U.S. Agriculture Department's comment in proposing this bill:

The needs of the trade, rather than Federal law, should determine when official grain grades and inspection are used for such commerce. This is now true for rice, beans, eggs, dairy products, fruits, vegetables, and most other agricultural commodities.

Transportation methods have changed greatly since 1916. An increasing amount of grain is now shipped by truck or by rail under special point-to-point rates. Official grading inspection of much of this grain is apparently not desired, even though it is technically required by the act. The grading inspection of grain shipped by truck would require inspectors on duty 24 hours a day, especially during harvest, or would necessitate delays in handling. The proposed bill provides for voluntary grading inspection of grain in domestic commerce and mandatory inspection for grain going abroad.

An important feature of this bill is that it permits the use of modern mechanical and electronic grain-sampling equipment and allows its use at elevators or other locations rather than only at inspection stations.

It is hoped that use of mechanical sampling equipment will help alleviate the recurring problem of boxcar shortages, by reducing the amount of time trains will be required to wait for inspection. This in itself would be of real value to all grain-producing areas of the country.

Mr. Speaker, I believe this legislation is needed, and I urge that it be passed.

(Mr. KLEPPE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. KLEPPE. Mr. Speaker, I rise in support of H.R. 15794. This bill rewrites the 50-year-old U.S. Grain Standards Act and brings it more up to date in concert with the way grain business is handled today.

I believe this bill represents a great step forward for farmers, for the grain trade and for the transportation industry. It makes grain sampling voluntary although either the buyer or the seller

can request an inspection certificate from a licensed inspector, and it certainly will speed up grain payments for farmers and elevator operators.

Testimony was very evident and clear that this bill will reduce the turn-around time on boxcars used for hauling grain which will be of great benefit in reducing the boxcar shortages plaguing not only North Dakota, but other grain-producing States as well.

In short, it will speed up the movement of grain through elevator facilities. This is a good bill and I request my colleagues to give it their support.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. On page 24 of the bill, as the gentleman well knows, section 19 provides:

SEC. 19. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Does the gentleman anticipate increased expenditures under this bill?

Mr. PURCELL. This bill will not increase expenditures. I think it is entirely possible it will decrease expenditures, because this is the first time, to my knowledge, that a regulation is put into our law authorizing the executive branch of the Government to reduce the work to be done by that department, and I think you will find a reduction in expenditure, and certainly not an increase, in my judgment.

Mr. GROSS. So there is no increase in employment under the terms of this bill?

Mr. PURCELL. No, there is not.

Mr. GROSS. I thank the gentleman.

Mr. SMITH of Iowa. Mr. Speaker, while those who are directly affected by this bill believe it is a very important bill, it is not generally considered to be one of the major agricultural bills which affect income directly.

Such major bills as the feed grains program or the Food and Agriculture Act of 1965 directly affect the incomes of people who receive far less than their due share of the national income in accordance with their contribution. In spite of the fact that they are not receiving their share, it seems to be becoming more popular to jump upon the programs they depend upon, to ridicule them, and to make statements which are grossly misleading to those who would really like to be fair.

Mr. Speaker, this body has heard some impassioned pleas suggesting a limitation on payments under our farm commodity programs and asserting that these same programs have become "a multibillion-dollar boondoggle." One colleague who has taken that position even went so far as to declare that he erred when he voted for the Food and Agriculture Act of 1965.

I find more valor than wisdom in such a statement. I further find that too many who have recently grabbed what they apparently assume is an easy or popular position have failed to familiarize themselves with the facts.

The fact is that farm commodity programs are not welfare programs—that the Government does not, as our col-

league suggested, "write relief checks to farmers who make application for a subsidy on vacant land." The programs aim quite simply at adjustment of total supply of a commodity—to balance supply with demand so that the producer is not severely penalized for being sure to produce what is needed; and the programs have achieved an astonishing degree of success in this regard. Farmers are compensated in direct proportion to their contribution to the national goal of balanced production.

The fact is that these programs do not represent any kind of a boondoggle, and that our colleague is grossly in error when he says "80 percent of the recipients are wealthy landowners and large corporation farmers—some controlled by nonresident owners." Actually, 87 percent of the recipients of payments receive less than \$2,000. In addition, 82 percent of the funds involved are for payments of \$10,000 or less. Thus, it is highly misleading and inaccurate to single out a few of the largest payments, as our colleague did, and conclude that "the fat cats of American agriculture are those who have benefited from the Agriculture Act of 1965."

The fact is that this legislation has significantly increased farm income, which has been and is unfairly low, has insured consumers of an adequate food supply at reasonable prices, and has brought about a healthy boost in exports.

The fact is that these programs are the charter for economic justice to rural America. We have found that farmers—acting alone—cannot obtain balanced production. We have learned from sad experience what happens when farm production gets out of balance. Government costs go up, farm income goes down, and America as a whole pays the price.

A few Members have even been claiming that the imposition of a \$10,000 limit upon production and conservation payments would save the Government \$600,000,000. While it is extremely far-fetched and ridiculous, I find that there are actually some people who believe this. To start with, it does not cost one penny more to secure production or conservation compliance on an acre tilled by a farmer with a large operation, than it does on an acre tilled by a farmer with a small operation. However, the limitation would exclude farmers with a larger operation from making their contribution to balanced production and would therefore require farmers with a small acreage to make bigger reductions in their production in order to achieve the same balance. If they failed to make the bigger reductions, their prices would suffer severely. Smaller farmers are the very ones that have an excess of labor available and it would be better for them if all of the acreage contribution were provided by large operators. The net effect of this proposed \$10,000 limitation would be to hurt smaller operators without any overall saving to the Government. As a matter of fact, it might very well cost the Government more, at least during the first year or two.

Let us suppose for a moment that Congress imposed a limitation of \$10,000 on

program payments, and consider what would happen to feed grain production.

The Department of Agriculture estimates that in 1968 alone—if the \$10,000 limit were imposed—CCC expenditures would skyrocket by \$45 million because of increased production which would at least temporarily go into Government storage as a result of driving the larger operators out of the acreage adjustment program.

The voluntary grain programs of the 1960's have benefited producers and taxpayers. Feed grain stocks have been reduced to manageable levels, program costs have been reduced and farm income has been strengthened. This could not continue if a payment limitation were imposed.

This is just one example, and it is much the same story with cotton and wheat. With sugar and wool, the proponents of a limitation on payments have overlooked the fact that these are incentive programs designed to encourage production since domestic production is not great enough to meet total need.

In truth, these attacks on the payment provisions of the commodity programs are usually made by those who want to get rid of the farm programs and find the payments a convenient handle for the whip. Make no mistake about this, for these proposals seek not to improve, to strengthen, to refine. They seek to weaken and dilute and destroy.

Should that happen, we know on good authority that rural America would suffer drastic consequences. Leading universities, congressional committees, and the Department of Agriculture have studied this problem and found that without the programs farm prices and net incomes would drop anywhere from half to one-third.

I believe these programs will stand up to the light of public scrutiny. They have been administered fairly and effectively. Yet they seem constantly under attack. Perhaps it is significant that those who choose to attack these programs propose no real alternatives, no positive steps to be undertaken once the cornerstone of protection is removed. They do not face the fact that they are really proposing to limit the size of a farm—without realizing this would be the same in principle to limiting the size of a steel company or a food company or a labor union. Do they really want to put a ceiling on farming enterprise? If so, let them propose it directly and hold hearings on the issue. Their equation seems to be that bigness equals badness in agriculture but not in industry. They do not mention that "small business" loans can be as much as \$250,000. They seem to say it is OK to enter into contracts with industry for many millions of dollars' worth of airplanes or construction but not OK to contract with farmers to conserve the land rather than produce wasteful surpluses, against the public interest. I hope they have carefully considered the consequences, for the path they propose would result in severe reductions in the income of people who are already enjoying less than a comparable return for their contribution. Until and unless they and the rest of this Congress are willing

to vote the funds for big food distribution programs, any alternative to the Food and Agriculture Act such as they suggest would be ruinous to farm income.

Our farmers—large and small—are making a meaningful contribution to the health, welfare, and prosperity of all America. This is a contribution they could not long make without the protection provided by farm commodity programs.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

INCREASING THE LIMITATION ON THE NUMBER OF OFFICERS FOR THE COAST GUARD

Mr. CLARK. Mr. Speaker, I ask unanimous consent that the bill (H.R. 16127) to increase the limitation on the number of officers for the Coast Guard, be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the bill, as follows:

H.R. 16127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 42 of title 14, United States Code, is amended by striking out "four" and inserting "five" in place thereof so that the subsection will read as follows:

"(a) The total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed five thousand."

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. CLARK. Mr. Speaker, I move to strike out the last word.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. CLARK. I yield to the gentleman from Iowa.

Mr. GROSS. Will the gentleman give us a brief explanation of this bill, particularly as to the cost involved?

Mr. CLARK. Yes. I saw the gentleman on the floor of the House when the explanation was given by the distinguished gentleman from Massachusetts and the distinguished gentleman from Ohio, and I thought he knew about it. But I will be very brief and to the point.

This bill is a most necessary one, and to those of us who really are wondering about keeping expenditures within bounds, I say there is really no explosion of the Coast Guard officer population. What this bill really will do is to allow 1,000 or less additional Coast Guard officers which are being taken away from us at this time to the events in the last year in East Asia, or the Asian coastline. We need these people in order for the Coast Guard Academy people to be

graduated, and if they are not graduated by June 4, we are going to have to take some of the men off the Reserve list.

Mr. GROSS. If the gentleman will yield further, how can it be said that there will be no increased cost, or did the gentleman say there would be no increased cost?

Mr. CLARK. The Appropriations Committee has complete control of the amount of money that would be appropriated and the amount or number of officers that would be commissioned.

Mr. GROSS. That will be determined by the number of officer increase, will it not?

Mr. CLARK. No, the officer increase will be governed by the Appropriations Committee in relation to the amount of money that will be given to them.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR WEEK OF JUNE 3, 1968

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the remainder of this week and the schedule for next.

Mr. ALBERT. Mr. Speaker, will the distinguished minority leader yield?

Mr. GERALD R. FORD. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the gentleman from Michigan, we have completed the legislative program for the week, and, under the terms of the resolution previously adopted, we will adjourn over, on adjournment today, until Monday next.

The program for next week is as follows:

Monday is Consent Calendar day.

There are four suspensions:

H.R. 8953, to provide for the relocation of certain bridges by the Tennessee Valley Authority;

H.R. 3306, to provide for the protection of the Pueblo de Taos Indians in New Mexico;

H.R. 15971, to increase the participation of law officers in courts-martial; and

S. 2634, to establish the U.S. Court of Military Appeals.

Tuesday is Private Calendar day. Also on Tuesday, the gentleman from Arkansas, Mr. MILLS, has advised he may call up by unanimous consent the following bills unanimously agreed to by the Committee on Ways and Means;

H.R. 272, extension of the Reed Act, unemployment security administration account for certain State expenses;

H.R. 7735, permanent suspension of duty on aluminum hydroxide and oxide, calcined bauxite, and bauxite ore;

H.R. 15798, temporary extension of suspension of duty on spun silk yarn; and

H.R. 17104, temporary extension of suspension of duty on electrodes for use in producing aluminum.

We will also consider H.R. 17268, Defense Production Act extension, under an open rule with 1 hour of debate.

For Wednesday and the balance of the week, we will have:

S. 2349, additional circuit court judgeships with an open rule and 1 hour of debate;

S. 1028, Federal employment conditions for former employees of agricultural county committees, with an open rule and 1 hour of debate;

S. 974, land conveyance, Glendale, Ariz., with an open rule and 1 hour of debate;

H.R. 16363, Wholesome Poultry Products Act, with an open rule and 2 hours of debate;

H.R. 16162, extension of certain loans by Export-Import Bank, which is subject to a rule being granted; and

H.R. 17267, to remove persons from Federal employment who engage in riots or civil disorders, which is also subject to a rule being granted.

On Thursday, under the unanimous-consent agreement previously obtained, the Speaker will recognize to be called up under suspension of the rules H.R. 16027, service-connected compensation increase for veterans.

This announcement is made subject to the usual reservations that conference reports may be brought up at any time and that any further program may be announced later.

Mr. GERALD R. FORD. Mr. Speaker, looking over the program for next week, numerically there are a number of bills set down for consideration. Should Members be forewarned that there is a possibility of a Friday session next week?

Mr. ALBERT. There is that possibility. Also there is a possibility, of course, that conference reports may come up. I think the arts and humanities bill conference report may come, or action may be taken on the omnibus crime bill, and Members should be aware of that. I think we can be quite sure that action on those matters would not come before Wednesday of next week, but I think it is possible we may have to go over to a Friday session. Of course, some of these bills are subject to rules being granted, and we will take up the veterans bill, I assume, the first thing on Thursday, regardless of whether we have reached other bills or not.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, it is true, is it not, that the so-called package tax bill will not come up under any circumstances next week?

Mr. ALBERT. Mr. Speaker, I see on the floor the distinguished chairman of the Committee on Ways and Means. He has conferred with the leadership on this matter, and I believe it is the intention of the gentleman to go to the Committee on Rules on the 11th of June and to call up the bill the next day or the following day.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Arkansas.

Mr. MILLS. Mr. Speaker, I would hope that schedule could be carried out.

Mr. ALBERT. In any event, I believe the gentleman and I both can assure the gentleman from Iowa that no action will be taken on the tax bill next week.

Mr. MILLS. It is not possible next week for us to get to it.

Mr. GERALD R. FORD. I believe it would be as helpful as possible if there could be some determination as soon as possible of the date that measure will be on the floor.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. MILLS. I have conferred, as has the majority leader, with the chairman of the Rules Committee. The chairman has advised us that the Rules Committee will meet on Tuesday morning, the 11th of June, to hear us in behalf of a rule for the conference report, and that he sees no reason why the Rules Committee could not complete its action that day. If that is the case, I am prepared, working with the leadership of the House, to bring it in on Wednesday or Thursday, whenever it is convenient.

I agree with the gentleman. I believe it would be wise at the earliest possible date if some notice is given to all Members that it will come up on a specific day.

Mr. ALBERT. Mr. Speaker, if the gentleman will yield, barring some unforeseen difficulty, I believe we could agree it would come up on Wednesday, June 12.

Mr. MILLS. That is right.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CORRECTION OF VOTES

Mr. MATSUNAGA. Mr. Speaker, on rollcall No. 152 I am recorded as not voting. I was present and voted "yea."

Mr. Speaker, on rollcall No. 153 I am recorded as not voting. I was present and voted "nay."

I ask unanimous consent that the permanent Record and Journal be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

SUB SAFETY RECOMMENDATIONS WERE MADE, BUT NOT IMPLEMENTED

(Mr. ROGERS of Florida asked and was given permission to address the

90TH CONGRESS
2D SESSION

H. R. 15794

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1968

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To provide for United States standards and a national inspection system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting
4 of part B of "An Act Making appropriations for the De-
5 partment of Agriculture for the fiscal year ending June
6 thirtieth, nineteen hundred and seventeen, and for other
7 purposes", approved August 11, 1916 (39 Stat. 446, at
8 482), as amended (7 U.S.C. 71-87), is hereby amended
9 to read as follows:

1 “SHORT TITLE

2 “SECTION 1. This Act may be cited as the ‘United
3 States Grain Standards Act’.

4 “DECLARATION OF POLICY

5 “SEC. 2. Grain is an essential source of the world’s total
6 supply of human food and animal feed and is merchandised
7 in interstate and foreign commerce. It is declared to be the
8 policy of the Congress, for the promotion and protection of
9 such commerce in the interests of producers, merchandisers,
10 warehousemen, processors, and consumers of grain, and the
11 general welfare of the people of the United States, to provide
12 for the establishment of official United States standards for
13 grain, to promote the uniform application thereof by official
14 inspection personnel, and to provide for an official inspection
15 system for grain; with the objectives that grain may be
16 marketed in an orderly manner and that trading in grain
17 may be facilitated.

18 “DEFINITIONS

19 “SEC. 3. When used in this Act, except where the con-
20 text requires otherwise—

21 “(a) the term ‘Secretary’ means the Secretary of
22 Agriculture of the United States or his delegates;

23 “(b) The term ‘Department of Agriculture’ means
24 the United States Department of Agriculture;

1 “(c) the term ‘person’ means any individual, part-
2 nership, corporation, association, or other business entity ;

3 “(d) the term ‘United States’ means the States
4 (including Puerto Rico) and the territories and posses-
5 sions of the United States (including the District of
6 Columbia) ;

7 “(e) the term ‘State’ means any one of the States
8 (including Puerto Rico) or territories or possessions of
9 the United States (including the District of Columbia) ;

10 “(f) the term ‘interstate or foreign commerce’
11 means commerce from any State to or through any
12 other State, or to or through any foreign country ;

13 “(g) the term ‘grain’ means corn, wheat, rye, oats,
14 barley, flaxseed, grain sorghum, soybeans, mixed grain,
15 and any other food grains, feed grains, and oilseeds for
16 which standards are established under section 4 of this
17 Act.

18 “(h) the term ‘export grain’ means grain for ship-
19 ment from the United States to any place outside thereof ;

20 “(i) the term ‘official inspection’ means the deter-
21 mination and the certification, by official inspection per-
22 sonnel, of the kind, class, quality, condition, or quantity
23 of sacks of grain, under standards provided for in this
24 Act or, upon request of the interested person applying

1 for inspection, other criteria approved by the Secretary
2 under this Act (the term 'officially inspected' shall be
3 construed accordingly) ;

4 “(j) the term 'official inspection personnel' means
5 employees of State or other governmental agencies or
6 commercial agencies or other persons who are licensed
7 to perform all or specified functions involved in official
8 inspection under this Act; employees of the Department
9 of Agriculture who are authorized to supervise official
10 inspection and to conduct appeal inspection or initial
11 inspection of United States grain in Canadian ports;

12 “(k) the term 'official inspection mark' means any
13 symbol prescribed by regulations of the Secretary to
14 show the official determination of the kind, class, qual-
15 ity, condition, or quantity of, or other facts relating to
16 grain, under standards provided for in this Act or, upon
17 request of the interested person applying for inspection,
18 other criteria approved by the Secretary under this Act;

19 “(l) the term 'official grade designation' means
20 a numerical or sample grade designation, specified in
21 the standards provided for in this Act;

22 “(m) the term 'official inspection agency' means
23 the agency or person located at an inspection point
24 designated by the Secretary for the conduct of official
25 inspection under this Act;

1 “(n) the term ‘official certificate’ and ‘official form’
2 mean, respectively, a certificate or other form prescribed
3 by regulations of the Secretary under this Act;

4 “(o) the term ‘official sample’ means a sample ob-
5 tained from a lot of grain by, and submitted for official
6 inspection by, official inspection personnel (the term
7 ‘official sampling’ shall be construed accordingly) ;

8 “(p) the term ‘submitted sample’ means a sample
9 submitted by or for an interested person for official in-
10 spection, other than an official sample;

11 “(q) the term ‘lot’ means a specific quantity of
12 grain identified as such;

13 “(r) the term ‘interested person’ means any person
14 having a contract or other financial interest in grain as
15 the owner, seller, purchaser, warehouseman, or carrier,
16 or otherwise;

17 “(s) the verb ‘ship’ with respect to grain means
18 transfer physical possession of the grain to another per-
19 son for the purpose of transportation by any means of
20 conveyance, or transport one’s own grain by any means
21 of conveyance;

22 “(t) the terms ‘false’, ‘incorrect’, and ‘misleading’
23 mean, respectively, false, incorrect, and misleading in any
24 particular;

1 “(u) the term ‘deceptive loading, handling, or
2 sampling’ means any manner of loading, handling, or
3 sampling that deceives or tends to deceive official inspec-
4 tion personnel, as specified by regulations of the Secre-
5 tary under this Act.

6 “STANDARDS

7 "SEC. 4. (a) The Secretary is authorized to investigate
8 the handling, grading, and transportation of grain and to fix
9 and establish standards of kind, class, quality, and condition
10 for corn, wheat, rye, oats, barley, flaxseed, grain sorghum,
11 soybeans, mixed grain, and such other grains as in his judg-
12 ment the usages of the trade may warrant and permit, and
13 the Secretary is authorized to amend or revoke such stand-
14 ards whenever the necessities of the trade may require.

“(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

“OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN
EXPORT GRAIN

“SEC. 5. Whenever standards are effective under section 4 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain that is sold, offered for sale, or consigned for sale by grade, unless such lot is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded abroad, or while it is in, the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided, however,* That the Secretary may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments.

“REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND
PROHIBITION OF CERTAIN ACTS WITH RESPECT TO
CERTAIN GRAIN

“SEC. 6. (a) Whenever standards are effective under section 4 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves

1 the shipment of such grain in interstate or foreign commerce,
2 describe such grain as being of any grade in any advertising,
3 price quotation, other negotiation of sale, contract of sale,
4 invoice, bill of lading, other document, or description on bags
5 or other containers of the grain, other than by an official
6 grade designation, with or without additional information as
7 to specified factors: *Provided*, That, with respect to inter-
8 state commerce, the description of such grain by any proprie-
9 tary brand name or trademark that does not resemble an
10 official grade designation, or by the use of one or more grade
11 factor designations set forth in the official United States
12 standards for grain, or by other factor information shall not
13 be deemed to be a description of grain as being of any grade.

14 “(b) No person shall, in any sale, offer for sale, or
15 consignment for sale, of any grain which involves the ship-
16 ment of such grain from the United States to any place out-
17 side thereof, knowingly describe such grain by any official
18 grade designation, or other description, which is false or
19 misleading.

20 “OFFICIAL INSPECTION AUTHORITY AND FUNDING

21 “SEC. 7. (a) The Secretary is authorized to cause official
22 inspection under the standards provided for in section 4 of
23 this Act to be made of all grain required to be officially in-
24 spected as provided in section 5 of this Act, in accordance
25 with such regulations as he may prescribe.

1 “(b) The Secretary is further authorized, upon request
2 of any interested person, and under such regulations as he
3 may prescribe, to cause official inspection to be made with
4 respect to any grain whether by official sample, submitted
5 sample, or otherwise within the United States or with respect
6 to United State grain in Canadian ports under standards
7 provided for in section 4 of this Act, or, upon request of
8 the interested person, under other criteria approved by the
9 Secretary for determining the kind, class, quality, condition,
10 or quantity of, or other facts relating to, grain, whenever in
11 his judgment providing such service will effectuate any of
12 the objectives stated in section 2 of this Act.

13 “(c) The regulations prescribed by the Secretary under
14 this Act shall include provisions for reinspections and appeal
15 inspections; cancellation of certificates superseded by re-
16 inspections and appeal inspections. The Secretary may pro-
17 vide by regulation that samples obtained by or for employees
18 of the Department of Agriculture for purposes of official in-
19 spection shall become the property of the United States, and
20 such samples may be disposed of without regard to the pro-
21 visions of the Federal Property and Administrative Services
22 Act of 1949, as amended (40 U.S.C. 471 et seq.).

23 “(d) Certificates issued and not canceled under this
24 Act shall be received by all officers and all courts of the

1 United States as prima facie evidence of the truth of the
2 facts stated therein.

3 “(e) The Secretary may, under such regulations as
4 he may prescribe, charge and collect reasonable fees to cover
5 the estimated total cost of official inspection except when the
6 inspection is performed by employees of an official inspection
7 agency. The fees authorized by this paragraph shall, as
8 nearly as practicable and after taking into consideration any
9 proceeds from the sale of samples, cover the costs of the
10 Department of Agriculture incident to the performance of
11 appeal and Canadian port inspection services for which the
12 fees are collected, including supervisory and administrative
13 costs. Such fees, and the proceeds from the sale of samples
14 obtained for purposes of official inspection which become the
15 property of the United States, shall be deposited into the
16 United States Treasury as miscellaneous receipts.

17 “(f) Not more than one inspection agency for carrying
18 out the provisions of this section shall be operative at one
19 time for any one city, town, or other area.

20 “LICENSES AND AUTHORIZATIONS

21 “SEC. 8. (a) The Secretary is authorized to issue a
22 license to any individual upon presentation to him of satis-
23 factory evidence that such individual is competent, and is
24 employed by an official inspection agency to perform all or
25 specified functions involved in official inspection; to author-

1 ize any competent employee of the Department of Agri-
2 culture to perform all or specified functions involved in
3 supervisory or appeal inspection or initial inspection of
4 United States grain in Canadian ports; and to license any
5 other competent individual to perform specified functions
6 involved in official inspection under a contract with the De-
7 partment of Agriculture. No person shall perform any official
8 inspection functions for purposes of this Act unless he holds
9 an unsuspended and unrevoked license or authorization from
10 the Secretary under this Act.

11 “(b) All classes of licenses issued under this Act shall
12 terminate triennially on a date or dates to be fixed by regu-
13 lation of the Secretary: *Provided*, That any license shall
14 be suspended automatically when the licensee ceases to be
15 employed by an official inspection agency or to operate
16 independently under the terms of a contract for the conduct
17 of any functions involved in official inspection under this
18 Act: *Provided further*, That subject to paragraph (c) of this
19 section, such license shall be reinstated if the licensee is
20 employed by an official inspection agency or resumes opera-
21 tion under such a contract within one year of the suspension
22 date and the license has not expired in the interim.

23 “(c) The Secretary may require such examinations and
24 reexaminations as he may deem warranted to determine the
25 competence of any applicants for licenses, licensees, or em-

1 ployees of the Department of Agriculture, to perform any
2 official inspection function under this Act.

3 “(d) Persons employed by an official inspection agency
4 and persons performing official inspection functions under
5 contracts with the Department of Agriculture shall not, unless
6 otherwise employed by the Federal Government, be deemed
7 to be employees of the Federal Government of the United
8 States.

9 “REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,
10 OF LICENSES

11 “SEC. 9. The Secretary may refuse to renew, or may
12 suspend or revoke, any license issued under this Act when-
13 ever, after the licensee has been afforded an opportunity for
14 a hearing, the Secretary shall determine that such licensee is
15 incompetent, or has inspected grain for purposes of this Act
16 by any standard or criteria other than as provided for in this
17 Act, or has issued, or caused the issuance of, any false or
18 incorrect official certificate or other official form, or has other-
19 wise inspected grain improperly under this Act, or has
20 accepted any money or other consideration, directly or indi-
21 rectly, for any neglect or improper performance of duty, or
22 has used his license or allowed it to be used for any improper
23 purpose, or has otherwise violated any provision of this Act
24 or of the regulations prescribed or instructions issued to him
25 by the Secretary under this Act. The Secretary may, without

1 first affording the licensee an opportunity for a hearing, sus-
2 pend any license temporarily pending final determination
3 whenever the Secretary deems such action to be in the best
4 interests of the official inspection system under this Act.

5 "REFUSAL OF OFFICIAL INSPECTION

6 "SEC. 10. (a) The Secretary may (for such period,
7 or indefinitely, as he deems necessary to effectuate the pur-
8 poses of this Act) refuse to provide official inspection other-
9 wise available under the Act with respect to any grain offered
10 for inspection, or owned, wholly or in part, by any person if
11 he determines (1) that the individual (or in case such per-
12 son is a partnership, any general partner; or in case such
13 person is a corporation, any officer, director, holder, or
14 owner of more than 10 per centum of the voting stock; or
15 in case such person is an unincorporated association or other
16 business entity, any officer or director thereof) has been
17 convicted of any violation of section 13 of this Act, or that
18 official inspection has been refused for any of the above-
19 specified causes (for a period which has not expired) to such
20 person, or any other person conducting a business with which
21 the former was, at the time such cause existed, or is respon-
22 sibly connected; and (2) that providing official inspection
23 with respect to such grain would be inimical to the integrity
24 of the official inspection service.

1 “(b) For purposes of paragraph (a) of this section, a
2 person shall be deemed to be responsibly connected with a
3 business if he was or is a partner, officer, director, holder, or
4 owner of 10 per centum or more of its voting stock, or an
5 employee in a managerial or executive capacity.

6 “(c) Before official inspection is refused to any person
7 under paragraph (a), such person shall be afforded oppor-
8 tunity for a hearing.

9 “PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

10 “SEC. 11. No person licensed or authorized by the Sec-
11 retary to perform any official inspection function under this
12 Act, or employed by the Secretary in otherwise carrying out
13 any of the provisions of this Act, shall, during the term of
14 such license, authorization, or employment, (a) be finan-
15 cially interested (directly or otherwise) in any business
16 entity owning or operating any grain elevator or warehouse
17 or engaged in the merchandising of grain, or (b) be in the
18 employment of, or accept gratuities from, any such entity, or
19 (c) be engaged in any other kind of activity specified by
20 regulation of the Secretary as involving a conflict of interest:
21 *Provided, however,* That the Secretary may license qualified
22 employees of any grain elevators or warehouses to perform
23 official sampling functions, under such conditions as the Sec-
24 retary may by regulation prescribe, and the Secretary may
25 by regulation provide such other exceptions to the restrictions

1 of this section as he determines are consistent with the pur-
2 poses of this Act.

3 “RECORDS

4 “SEC. 12. (a) Every official inspection agency and
5 every person licensed to perform any official inspection func-
6 tion under this Act shall maintain such samples of officially
7 inspected grain and such other records as the Secretary may
8 by regulation prescribe for the purpose of administration and
9 enforcement of this Act.

10 “(b) Every official inspection agency required to main-
11 tain records under this section shall keep such records for a
12 period of two years after the inspection or transaction, which
13 is the subject of the record, occurred: *Provided, however,*
14 That grain samples shall be required to be maintained only
15 for such period not in excess of ninety days as the Secretary
16 shall prescribe; and in specific cases other records may be
17 required by the Secretary to be maintained for not more than
18 three years in addition to said two-year period whenever in
19 his judgment the retention of such records for the longer
20 period is necessary for the effective administration and en-
21 forcement of this Act.

22 “(c) Every official inspection agency required to main-
23 tain records under this section shall permit any authorized
24 representative of the Secretary to have access to, and to copy,
25 such records at all reasonable times.

1 "PROHIBITED ACTS

2 "SEC. 13. (a) No person shall—

3 "(1) knowingly falsely make, issue, alter, forge, or
4 counterfeit any official certificate or other official form or
5 official inspection mark;6 "(2) knowingly utter, publish, or use as true any
7 falsely made, issued, altered, forged, or counterfeited
8 official certificate or other official form or official inspec-
9 tion mark, or knowingly possess, without promptly noti-
10 fying the Secretary or his representative, or fail to sur-
11 render to such a representative upon demand, any falsely
12 made, issued, altered, forged, or counterfeited official
13 inspection certificate or other official form, or any device
14 for making any official inspection mark or simulation
15 thereof, or knowingly possess any grain in a container
16 bearing any falsely made, issued, altered, forged, or
17 counterfeited official inspection mark without promptly
18 giving such notice;19 "(3) knowingly cause or attempt (whether suc-
20 cessfully or not) to cause the issuance of a false or incor-
21 rect official certificate or other official form by any means,
22 including but not limited to deceptive loading, handling,
23 or sampling of grain, or submitting grain for official
24 inspection knowing that it has been deceptively loaded,
25 handled, or sampled, without disclosing such knowledge

1 to the official inspection personnel before official
2 sampling;

3 “(4) alter any official sample of grain in any
4 manner or, knowing that an official sample has been
5 altered, thereafter represent it as an official sample;

6 “(5) knowingly use any official grade designation
7 or official inspection mark on any container of grain
8 by means of a tag, label, or otherwise, unless the grain
9 in such container was officially inspected on the basis of
10 an official sample taken while the grain was being loaded
11 into or was in such container and the grain was found
12 to qualify for such designation or mark;

13 “(6) knowingly make any false representation that
14 any grain has been officially inspected, or officially
15 inspected and found to be of a particular kind, class,
16 quality, condition, or quantity, or that particular facts
17 have been established with respect to grain by official
18 inspection under this Act;

19 “(7) improperly influence, or attempt to improp-
20 erly influence, any official inspection personnel or any
21 officer or employee of the Department of Agriculture
22 with respect to the performance of his duties under this
23 Act;

24 “(8) forcibly assault, resist, oppose, impede, intimi-
25 date, or interfere with any official inspection personnel

1 or any officer or employee of the Department of Agricul-
2 ture in, or on account of, the performance of his duties
3 under this Act;

4 “(9) falsely represent that he is licensed or author-
5 ized to perform an official inspection function under
6 this Act;

7 “(10) use any false or misleading means in connec-
8 tion with the making or filing of an application for
9 official inspection; or

10 “(11) violate any provision of section 5, 6, 8, 11,
11 or 12 of this Act.

12 “(b) No person licensed or authorized to perform any
13 function under this Act shall—

14 “(1) commit any offense prohibited by subsection
15 (a) ;

16 “(2) knowingly perform improperly any official
17 sampling or other official inspection function under this
18 Act;

19 “(3) knowingly execute or issue any false or
20 incorrect official certificate or other official form; or

21 “(4) accept money or other consideration, directly
22 or indirectly, for any neglect or improper performance
23 of duty.

24 “(c) An offense shall be deemed to have been com-
25 mitted knowingly under this Act if it resulted from gross

1 negligence or was committed with knowledge of the perti-
2 nent facts.

3 "PENALTIES

4 "SEC. 14. (a) Any person who commits any offense
5 prohibited by section 13 shall be guilty of a misdemeanor
6 and shall, on conviction thereof, be subject to imprisonment
7 for not more than six months, a fine of not more than
8 \$3,000 or both such imprisonment and fine; but if such
9 offense is committed after one conviction of such person
10 under this section has become final, such person shall be
11 subject to imprisonment for not more than one year, or a
12 fine of not more than \$5,000, or both such imprisonment and
13 fine.

14 " (b) Nothing in this Act shall be construed as requiring
15 the Secretary to report minor violations of this Act for
16 criminal prosecution whenever he believes that the public
17 interest will be adequately served by a suitable written
18 notice or warning.

19 "RESPONSIBILITY FOR ACTS OF OTHERS

20 "SEC. 15. When construing and enforcing the provisions
21 of this Act, the act, omission, or failure of any official,
22 agent, or other person acting for or employed by any asso-
23 ciation, partnership, or corporation within the scope of his
24 employment or office shall, in every case, also be deemed

1 the act, omission, or failure of such association, partnership,
2 or corporation as well as that of the person.

3 “GENERAL AUTHORITIES

4 “SEC. 16. The Secretary is authorized to conduct such
5 investigations, hold such hearings, require such reports from
6 any official inspection agency or any person, and prescribe
7 such rules and regulations as he deems necessary to effectu-
8 ate the purposes or provisions of this Act. Whether any cer-
9 tificate, other form, representation, designation, or other
10 description is false, incorrect, or misleading within the mean-
11 ing of this Act shall be determined by tests made in accord-
12 ance with such procedures as the Secretary may adopt to
13 effectuate the objectives of this Act, if the relevant facts
14 are determinable by such tests. Proceedings under section
15 9 or 10 of this Act for refusal to renew, or for suspension or
16 revocation of, a license, or for refusal of official inspection
17 service not required by section 5 of this Act, shall not, un-
18 less requested by the respondent, be subject to the adminis-
19 trative procedure provisions in sections 554, 556, and 557
20 of title 5, United States Code.

21 “ENFORCEMENT PROVISIONS

22 “SEC. 17. (a) For the purposes of this Act, the Secre-
23 tary shall at all reasonable times have access to, for the pur-
24 pose of examination, and the right to copy any documentary
25 evidence of any person with respect to whom such authority

1 is exercised; and the Secretary shall have power to require
2 by subpoena the attendance and testimony of witnesses and
3 the production of all such documentary evidence relating to
4 any matter under investigation, and may administer oaths
5 and affirmations, examine witnesses, and receive evidence.

6 “(b) Such attendance of witnesses, and the production
7 of such documentary evidence, may be required from any
8 place in the United States, at any designated place of hear-
9 ing. In case of disobedience to a subpoena the Secretary may
10 invoke the aid of any court designated in paragraph (h) of
11 this section in requiring the attendance and testimony of
12 witnesses and the production of documentary evidence.

13 “(c) Any such court within the jurisdiction of which
14 such inquiry is carried on may, in case of contumacy or
15 refusal to obey a subpoena issued to any person, issue an order
16 requiring such person to appear before the Secretary or to
17 produce documentary evidence if so ordered, or to give evi-
18 dence touching the matter in question; and any failure to
19 obey such order of the court may be punished by such court
20 as a contempt thereof.

21 “(d) Witnesses summoned before the Secretary shall
22 be paid the same fees and mileage that are paid witnesses
23 in the courts of the United States, and witnesses from
24 depositions are taken and the persons taking the same shall

1 severally be entitled to the same fees as are paid for like
2 services in the courts of the United States.

3 “(e) Any person who shall neglect or refuse to attend
4 and testify, or to answer any lawful inquiry, or to produce
5 documentary evidence, if in his power to do so, in obedience
6 to the subpoena or lawful requirement of the Secretary, shall
7 be guilty of a misdemeanor, and upon conviction thereof be
8 subject to the penalties set forth in section 14 of this Act.

9 “(f) No person shall be excused from attending and
10 testifying or from producing documentary evidence before
11 the Secretary, or in obedience to the subpoena of the Secre-
12 tary, or in any cause or proceeding, criminal or otherwise,
13 based upon or growing out of any alleged violation of this
14 Act, or of any amendments thereto, on the ground or for the
15 reason that the testimony or evidence, documentary or other-
16 wise, required of him may tend to incriminate him or subject
17 him to a penalty or forfeiture; but no individual shall be
18 prosecuted or subjected to any penalty or forfeiture for or on
19 account of any transaction, matter, or thing concerning which
20 he is compelled, after having claimed his privilege against
21 self-incrimination, to testify or produce evidence, documen-
22 tary or otherwise, except that any individual so testifying
23 shall not be exempt from prosecution and punishment for
24 perjury committed in so testifying.

25 “(g) Any officer or employee of the Department of

1 Agriculture who shall make public any information obtained
2 under this Act by the Department of Agriculture, without its
3 authority, unless directed by the court, shall be guilty of a
4 misdemeanor, and upon conviction thereof be subject to the
5 penalties set forth in section 14 of this Act.

6 “(h) The United States district courts, the District
7 Court of Guam, the District Court of the Virgin Islands, the
8 highest court of American Samoa, and the United States
9 courts of the other territories and possessions of the United
10 States shall have jurisdiction in cases arising under this Act.

11 “RELATION TO STATE AND LOCAL LAWS; SEPARABILITY
12 OF PROVISIONS

13 “SEC. 18. (a) No State or subdivision thereof may re-
14 quire the inspection or description in accordance with any
15 standards of kind, class, quality, condition, or other char-
16 acteristics of grain as a condition of shipment, or sale, of such
17 grain in interstate or foreign commerce, or require any
18 license for, or impose any other restrictions upon, the per-
19 formance of any official inspection function under this Act
20 by official inspection personnel. Otherwise nothing in this
21 Act shall invalidate any law or other provision of any State
22 or subdivision thereof in the absence of a conflict with this
23 Act.

24 “(b) If any provision of this Act or the application
25 thereof to any person or circumstances is held invalid, the

1 validity of the remainder of the Act and of the application
2 of such provision to other persons and circumstances shall not
3 be affected thereby.

4 “APPROPRIATIONS

5 “SEC. 19. There are hereby authorized to be appropri-
6 ated such sums as are necessary to carry out the provisions
7 of this Act.

8 “EFFECTIVE DATE

9 “SEC. 20. This Act shall become effective one hundred
10 and eighty days after enactment hereof, except that the re-
11 peal of the mandatory inspection provisions with respect to
12 grain shipped or delivered for shipment in interstate com-
13 merce shall become effective thirty days after enactment
14 hereof and the provisions of paragraphs 6 (a) and 13 (a)
15 (5) of this Act shall then become effective with respect to
16 such grain.”

Passed the House of Representatives May 29, 1968.

Attest:

W. PAT JENNINGS,

Clerk.

AN ACT

To provide for United States standards and a national inspection system for grain, and for other purposes.

JUNE 3, 1968

Read twice and referred to the Committee on
Agriculture and Forestry

Senate

July 2, 1968

- 3 -

second supplemental appropriation bill, 1968, and acted on amendments in disagreement (pp. S8140-49, H5889-97). The House agreed to a motion to concur in the Senate amendment with an amendment to appropriate \$10,000,000 for the school lunch program authorized by P.L. 90-302, instead of \$32,000,000 as proposed by the Senate (p. H5593). See Digest No. 106 for other provisions. This bill will now be sent to the President.

Senate conferees on H. R. 15399, the urgent supplemental appropriation bill, were discharged from further service inasmuch as the items therein have been disposed of, with one exception, an item relating to the Farmers Home Administration which has been transferred to the annual Agriculture appropriation bill. p. S8148

14. CONSERVATION. Both Houses agreed to the conference report on S. 1401, to provide that receipts from mineral leases on offshore lands be deposited in the land and water conservation fund (pp. S8162-64, H5898-99). As agreed to in conference, this bill would add to the land and water conservation fund for the next 5 years, \$200 million for each of those years. This bill will now be sent to the President.
15. RECLAMATION. Concurred in House amendments on S. 1251, to make certain reclamation project expenses nonreimbursable. The bill would relieve certain water users' organizations from the responsibility for the repayment to the Federal Government of severance pay to Bureau of Reclamation employees whose Federal employment is terminated as a result of the transfer of the responsibility for project operation from the Bureau to the water user agency (p. S8091). This bill will now be sent to the President.
16. WILDLIFE. Senate concurred in House amendment to S. 322, to encourage the transfer of acquired lands within the national wildlife refuge system (p. S8140). This bill will now be sent to the President.
17. FLOOD CONTROL. Passed with amendments S. 3710, to authorize the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control. pp. S8123-39, S8149-54
18. GRAINS. A subcommittee of the Agriculture and Forestry Committee approved for full committee consideration with amendments H. R. 15794, to amend the laws relating to the inspection and grading of grain. p. D632
Sen. Dodd opposed the International Grains Arrangement of 1967 stating that "almost immediately after the treaty was ratified, the Secretary of Agriculture acted to impose an export tax on wheat and to reduce wheat allotments for 1969 by 13 percent." p. S8118
19. WATER QUALITY. The Public Works Committee voted to report (but did not actually report) S. 3206, the proposed Water Quality Improvement Act. p. D633
The Public Works Committee approved plans for works of improvement on watershed projects. p. D633
The Public Works Committee approved the language of amendments adopted to S. 2525, to control pollution from vessels within navigable waters of the U. S. p. D633

20. REA. Received from REA information of the approval of certain loans for the financing of certain transmission facilities to the Central Electric Power Cooperative, Inc. p. S8067
21. PERSONNEL. Sen. Ervin inserted the text of his statement before the House Post Office and Civil Service Subcommittee on Manpower and Civil Service on S. 1035, the employee privacy bill. pp. S8080-90
22. TAIWAN. Sen. Tower commended Taiwan's economic and social advancement from an agricultural culture to a representative, republican system. pp. S8120-22
23. POVERTY. Sen. Tower defended Congress and the Government against allegations that they are "indifferent" to the needs of the poor and stated that in an analysis of the 1968 budget "an estimated total of \$25.6 billion is going to programs assisting the poor." pp. S8109-10
24. FEDERAL AID. Sen. Hart criticized the "drastically reduced" Labor-HEW appropriation bill passed last week by the House. pp. S8110-11
25. CENSUS. Sen. Tower urged that Congress take legislative action which would instruct the Census Bureau to confine the scope and content of the decennial census. pp. S8112-3
26. ELECTRIFICATION. Sen. Metcalf criticized utilities as "tax collectors" not "tax payers." pp. S8113-5
27. TRANSPORTATION. Sen. Thurmond inserted material discussing the nonmilitary uses of nuclear explosives, relating to the interoceanic canal. pp. S8158-62
28. ADJOURNMENT. ^{Both Houses} agreed to H. Con. Res. 792, that when the two Houses adjourn on Wed., July 3, they stand adjourned until 12 o'clock Mon., July 8. pp. S8151
H5897

EXTENSION OF REMARKS

29. TREES. Rep. Reuss inserted an open letter to utility companies on the importance of preserving trees. pp. E6037-8
30. VOCATIONAL EDUCATION. Rep. Landrum inserted several articles on vocational education and how it can help solve many of our economic and social problems. pp. E6039-44
31. WATER. Rep. Burton inserted an article on the efforts of two Colorado Congressmen to have a feasibility study done on new water resources for Northern Colorado. pp. E6049-50
32. FREIGHT RATES. Rep. Patman spoke on the need for legislation establishing a commission to study freight rates for farm products. pp. E6050-51
33. CONSUMER. Rep. Sullivan inserted her address before the International Organization of Consumers Unions on the problems of passing good consumers legislation in the House of Representatives. pp. E6062-4

Daily Digest

HIGHLIGHTS

Both Houses cleared second supplemental appropriations bill for White House.
Senate passed omnibus rivers and harbors—flood control bill and took up bill on juvenile delinquency control.
House passed Natural Gas Pipeline Safety Act of 1968.

Senate

Chamber Action

Routine Proceedings, pages S 8067–S 8123

Bills Introduced: Six bills and two resolutions were introduced, as follows: S. 3727–3732; and S. Res. 311–312.

Pages S 8068–S 8069, S 8072–S 8073

Bills Reported: Reports were made as follows:

S. 3227, to provide for disposition of judgment funds in favor of the Southern Paiute Nation of Indians (S. Rept. 1356);

H.R. 13402, authorizing use of certain buildings in the D.C. for chancery purposes (S. Rept. 1357);

S. 3495, to release restrictions on certain Iowa lands as a site for construction of the Iowa Law Enforcement Academy, with amendments (S. Rept. 1358);

S. 3671, to provide for striking of medals in commemoration of the 200th anniversary of founding of Dartmouth College (S. Rept. 1359);

S. 3456, providing that the prosecution of offenses of disorderly conduct or obscene acts shall be conducted in the name of the D.C. (S. Rept. 1360); and

Report of the Joint Economic Committee entitled "Standards for Guiding Monetary Action," with supplementary views (S. Rept. 1361).

Page S 8068

Bills Referred: Six House-passed bills were referred to appropriate committees.

Page S 8140

Reclamation: Senate concurred in House amendments to S. 1251, to make certain reclamation project expenses nonreimbursable, clearing bill for White House.

Page S 8091

Wildlife Refuges: S. 322, providing that no land can be transferred from the national wildlife refuge system without approval of the Migratory Bird Commission, was cleared for White House when Senate concurred in House amendments.

Page S 8140

Printing: Letter from Secretary of Army transmitting report dated May 13, 1968, from Chief of Engineers, Department of the Army, on review of report on Delaware coast, beach erosion control and hurricane protec-

tion, was received, referred to Committee on Public Works, and ordered to be printed as S. Doc. 90.

Page S 8068

Second Supplemental Appropriations: H.R. 17734, second supplemental appropriations for fiscal year 1968, was cleared for White House when Senate adopted, by 64 yeas to 1 nay, conference report thereon, concurring in House amendments to Senate amendments No. 1 (school lunch program), No. 6 (summer program for children and youth in D.C.), No. 14 (public building projects, GSA), No. 20 (American Revolution Bicentennial Commission), No. 21 (Manpower Administration, Department of Labor), No. 22 (school aid in federally impacted areas, HEW), and No. 25 (economic opportunity program).

Pages S 8140–S 8149

Urgent Supplemental Appropriations: Senate conferees on H.R. 15399, making urgent supplemental appropriations for fiscal year 1968, were discharged from further service inasmuch as the items therein have been disposed of in other legislation.

Page S 8148

Fourth of July Adjournment: Senate adopted H. Con. Res. 792, providing that when the two Houses adjourn on Wednesday, July 3, they stand adjourned until noon Monday, July 8.

Pages S 8100, S 8151

Rivers and Harbors—Flood Control: Senate passed with amendments (motion to reconsider tabled) S. 3710, omnibus rivers and harbors—flood control bill, after taking the following actions on amendments thereto:

Adopted: The following amendments to authorize indicated amounts for projects, as follows:

Ellender amendment—\$1.3 million for Mississippi River—Gulf Outlet, Michoud Canal, La.; Holland amendment—\$6.476 million for Miami Harbor, Fla.; Nelson amendment—\$6.849 million for State Road and Ebner Coulees, city of La Crosse and Shelby Township, Wis.; Javits amendment—\$500,000 for Hamlin Beach State Park, N.Y.; Jackson amendment—\$1.108 million for Snohomish River (Everett Harbor), Wash.; and Murphy amendments en bloc—\$1 million for Port

Hueneme, Calif., and \$1.54 million for Ventura Marina, Calif.

Also adopted was Miller amendment as substitute for language of bill respecting upper basin of Big Sioux River, Iowa and S. Dak. (flood control and mitigation of fish and wildlife losses); and

Rejected: Two Williams (Delaware) amendments (1) by 7 yeas to 59 nays, to eliminate language that would except TVA power programs from personnel or expenditure limitation in any other legislation (motion to reconsider tabled), and, (2) on division vote, to provide that there be a moratorium on any new public works projects.

Pages S 8123-S 8139, S 8149-S 8154

Juvenile Delinquency: Senate took up H.R. 12120, proposed Juvenile Delinquency Prevention and Control Act.

Pages S 8154-S 8158

Land and Water Conservation: S. 1401, proposed land and water conservation fund amendments, was cleared for White House when Senate adopted conference report thereon.

Pages S 8162-S 8164

Legislative Program: Majority leader announced that the Senate on Wednesday, July 3, will consider and, it is hoped, dispose of H.R. 12120, juvenile delinquency control. It is expected that amendments will be offered and roll call votes will be taken. If this bill is disposed of on Wednesday, the Senate on Monday, July 8, will consider H.R. 18038, legislative appropriations.

Page S 8151

Nominations: Numerous postmaster nominations were received.

Page S 8164

Record Votes: Two record votes were taken today.

Pages S 8143, S 8150

Program for Wednesday: Senate met at noon and adjourned at 4:52 p.m. until 9 a.m. Wednesday, July 3, when it will consider its unfinished business H.R. 12120, juvenile delinquency.

Page S 8164

Committee Meetings

(Committees not listed did not meet)

POULTRY INSPECTION

Committee on Agriculture and Forestry: Subcommittee on Agricultural Research and General Legislation concluded hearings on pending bills to authorize a more adequate program of poultry inspection in the U.S. (S. 2846, 2932, 3383 (title 1), and H.R. 16363), after receiving testimony from Dr. David J. Sencer, Assistant Surgeon General, and Director, National Communicable Disease Center, Department of HEW, Atlanta; Jack C. Lynn, American Farm Bureau Federation; Edward Dunkelberger, National Canners Association; R. Frank Frazier, National Broiler Council; Marvin Johnson, National Turkey Federation; Vic Pringle, Institute of American Poultry Industries; Henry Kaufmann, Grain & Feed Dealers National Association; and William Brooks, National Grain Trade Council.

GRAIN INSPECTION

Committee on Agriculture and Forestry: Subcommittee on Agricultural Research and General Legislation, in executive session, approved for full committee consideration with amendments H.R. 15794, to amend the laws relating to the inspection and grading of grain.

APPROPRIATIONS—D.C.

Committee on Appropriations: Subcommittee continued its hearings on fiscal 1969 budget estimates for the District of Columbia, receiving testimony in behalf of funds for D.C. courts from Morris Miller, chief judge, D.C. juvenile court; Harold H. Greene, chief judge, D.C. court of general sessions; Andrew M. Hood, chief judge, D.C. court of appeals; Phyllis R. Liberti, clerk, D.C. tax court, and other representatives of the D.C. government.

Hearings continue on Friday, July 5.

COMMITTEE BUSINESS

Committee on Armed Services: Committee met in executive session to consider proposed legislation dealing with retirement of National Guard technicians. Participating in this discussion was Maj. Gen. Winston P. Wilson, Chief of the National Guard Bureau.

Committee ordered favorably reported with amendments S. 3495, to release restrictions on certain Iowa lands as a site for construction of the Iowa Law Enforcement Academy. Committee also approved 13 nominations, including that of Maj. Gen. John P. McConnell for reappointment as Air Force Chief of Staff for 1 year beginning August 1, 1968.

CITY RIOTS

Committee on Government Operations: Permanent Subcommittee on Investigations continued its series of hearings on riots in American cities, with testimony with regard to reported inadequacies and improprieties in the administration of certain Office of Economic Opportunity programs in Chicago from Nicholas Dorenzo, a former member of the Devils Disciples, Chicago youth gang; Peter Zelkovich, former investigator with the Chicago alcoholic tax unit; and Sgt. Neil Wilson and Ulester Mims, both of the Chicago Police Department.

Hearings continue tomorrow.

RECLAMATION

Committee on Interior and Insular Affairs: Subcommittee on Water and Power Resources held hearings on S. 1733, to differentiate between private and public land ownership in the administration of acreage limitation provisions of the Federal reclamation laws, having as its witnesses Floyd E. Dominy, Commissioner of Reclamation, Department of the Interior; and Bert L. Cole, commissioner, Bureau of Reclamation, State of Washington. This bill was approved with amendments for full committee consideration.

outstanding traits of character and mind."

Representative GEORGE MAHON, chairman of the House Appropriations Committee, reminded us all that Mr. Thornberry "believes in representative government, believes in our country, and believes in his colleagues."

Representative MENDEL RIVERS, of South Carolina, called him a "deep and indefatigable student of legislation and of the law. He impresses one with his capacity to sift the wheat from the chaff."

Representative OMAR BURLESON, chairman of the House Administration Committee, said he had "never observed a more dedicated public servant than Homer Thornberry. I have always believed that if a man in public sought the truth, exercised commonsense judgment, and wholly dedicated himself to serving the Nation and his people, in the final analysis he was usually right in his actions. I believe this description to be wholly and unreservedly applicable to him."

Representative JOHN YOUNG praised Mr. Thornberry's "devotion to duty, exceptionally high standard of morality, character, and sense of justice."

Homer Thornberry's ardent supporters came not just from his home State and not just from the Democratic Party, to which he belongs. Representative BOLAND, of Massachusetts, had words to say about his "magnificent personality, fine judicial demeanor, and very keen intellect."

Representative ARENDS, of Illinois, called him a "great American and a truly outstanding individual."

Representative HALLECK, of Indiana, then the House minority leader, said:

I know he will do the same magnificent job for the people who come before him there that he did in the House of Representatives for the people who sent him here, as well as for his State and our beloved country.

The list goes on, with high praise for Homer Thornberry's judicial, personal, and legislative qualities—for his wisdom, his fairness, and his devotion to the dignity of the individual.

I am sure that those men who praised him then, as I did, feel today, as I do, that Homer Thornberry on the U.S. District Court and on the U.S. Circuit Court, has lived up to our predictions.

Representative ALBERT said in 1963:

If I ever met a man in my life who has judgment, it is Homer Thornberry.

COMMUNITY RADIO WATCH

Mr. PERCY. Mr. President, at a time when the focus of national attention is on the passage of laws to secure additional protection to society from the current wave of lawlessness that plagues our society, we will do well to note and promote other nonlegislative efforts being made to achieve the same ends.

A critical need is to improve the public attitude toward the police, and to stimulate our citizens to assist crime victims as well as to reinforce police efforts in law enforcement work whenever they can. Stories of apathetic citizens standing by or turning away as a crime

is committed in their presence have appeared too frequently in the press and the other public media in recent months.

The Communications Division of Motorola Communication and Electronics of Chicago has for the past year actively sponsored a community radio watch program. Under the program, drivers of radio-equipped vehicles are encouraged to act under specific instructions as "the eyes and ears" of public safety agencies as they go about their daily rounds. In addition to being a deterrent to crime, and an aid to rapid law enforcement reaction to crime I believe that this program effectively promotes constructive community-police relationships, and underscores the responsibility of each individual to aid in promoting greater public safety. The Motorola Co. and the participants in this program are to be commended for this public spiritual undertaking. I ask unanimous consent that two press releases outlining the achievements of vehicle drivers who have received the Community Radio Watch Distinguished Service Award be printed in the RECORD.

There being no objection, the releases were ordered to be printed in the RECORD, as follows:

CHICAGO, ILL., May 16, 1968.—Nine vehicle drivers have received the Community Radio Watch Distinguished Service Award for using two-way radio to cooperate with public safety agencies during the last three weeks.

Seven have just been given during this Police Week and two awards were given on the week of May 6. These events, plus the growth of the Community Radio Watch program, has proved that many citizens are concerned with the rapid growth of crime, that they will help law enforcement agencies prevent crime.

Six of these award winners helped capture criminals. Two came to the aid of victims of serious automobile accidents; and one helped save a baby from suffocation. Here are the facts.

On February 26, 1968, shortly before 11:30 PM, Gene Hunt—a serviceman for the Niagara Mohawk Power Company—noticed a man loitering in front of Jim's Soda Spot in Fulton, New York.

He circled the block; and as he approached the restaurant again, he saw that the front door had been smashed.

Immediately, he contacted his dispatcher by radio, advising him of the situation, and requested that the police be notified.

The police arrived within minutes. Hunt notified them to proceed with caution as the intruder was very probably still in the building. Hunt proved to be correct. The police apprehended the man as he was in the process of burglarizing the restaurant.

Hunt was cited on May 13.

On November 15, 1967, Ronald Cole—a service truck driver for the Independent Oil Company in Rochester, N.Y., was driving in a remote area along Lakeshore Boulevard through the Durand Eastman Park.

Suddenly he saw a vehicle go out of control and plunge into a pond. Mr. Cole radioed his dispatcher, requesting that the police and fire department both be notified of the incident.

The victim's car was towed from the pond within minutes.

Cole was cited on May 14.

On February 12, 1968, Carl LaFountain, a truck driver for the Cataract Truck and Car Rental Corporation in Niagara Falls, N.Y., saw a woman's car skid out of control, jump the curb and hit a tree.

LaFountain radioed his dispatcher. His dispatcher called the police, requesting an ambulance.

Both vehicles arrived within minutes, and the woman was taken to the hospital where she was treated for injuries.

LaFountain was cited on May 15.

On November 2, 1967, Richard A. Misnik and Earl K. Hodgson, troublemen for the Niagara Mohawk Power Company in the Buffalo, N.Y. area, helped capture a gunman who threatened a city councilman's daughter as she was walking home from night classes at the University of Buffalo.

The girl was walking along a downtown street when the man whirled around holding a revolver. He pulled the trigger, but the firing pin merely clicked on the shell.

The girl ran screaming onto Main Street, stopped Misnik and Hodgson, and poured out her story in gasps.

"Earlier, he offered me a ride. I refused. Then he tried to kill me!"

A quick radio message to the Niagara Mohawk dispatcher, relayed by telephone to the police, brought further aid immediately.

The police caught the man as he ran into a downtown parking lot. The gun in his possession still had live bullets in its chambers.

Hodgson and Misnik received the Community Radio Watch Award on May 16.

In San Francisco, Edgar J. Pierce saw a man snatch a purse from a woman. He notified his dispatcher, who—in turn— notified the police.

Just two minutes later, the two suspects involved in the incident were captured.

In Santa Monica, California, Carl Hood received the award for using radio to summon help to an off-duty policeman who was holding a hit-and-run driver at gunpoint. Hood requested that other officers be dispatched to the policeman's aid.

These men received awards on May 15 and 16.

In the week of May 6th, William P. Fritzley, a taxi driver, was presented the Distinguished Service Award in Detroit for using radio to report his movements. He was carrying a bank robber who had hailed his cab as a get-away vehicle.

In the same week, Clarence R. Higgins received the Community Radio Watch Award in Bay City, Michigan, for using radio to report the plight of a baby which was suffocating.

The Community Radio Watch program, which asks drivers of radio-equipped vehicles to act as the "eyes and ears" of the police and other public safety agencies and to observe and report, is thriving from coast to coast.

Currently some 650 communities are protected by this program. Seventeen awards have been given nationally. Nine have been given already this year, one more than the total for last year. At the current rate, the award winners will multiply three to four fold over last year. Community Radio Watch is sponsored nationally by the Communications Division of Motorola, Chicago.

GREENSBORO, N.C., May 29, 1968.—Jimmy Douglas Solomon, Sr., former taxicab driver for the Sun Cab Company, has just received the second Community Radio Watch Distinguished Service Award to be given in the State of North Carolina.

The award—a plaque and two hundred dollars in U.S. Government Savings Bonds—was given to Solomon by Mayor Carson Bain.

Solomon used his two-way radio to assist in the capture of a murderer. Without his identification and police notification the crime might possibly have gone unsolved.

On Saturday, September 16, 1967, at approximately 11:58 A.M., Solomon was driving his occupied cab on Washington Street toward the intersection with Edgeworth Street.

As he crossed the intersection, he heard a noise that sounded like a gunshot. He looked to his left and saw a man with a pistol in his hand, crouched behind a 1960 blue Chevrolet.

He saw the man fire the pistol a second time. Then Solomon saw another man running from the assailant. The man stumbled, kept running briefly and finally fell.

As Solomon stopped his cab, he saw the assailant walk up to his victim and shoot the man three more times as the man lay on the ground.

Solomon already had his "mike" in his hand. The assailant, however, apparently saw Solomon attempting to communicate over his two-way radio. He pointed the pistol at Solomon.

Solomon dropped the "mike" and drove away. He stopped when he was out of range, radioed his dispatcher again and requested help. The dispatcher notified the Greensboro communications center and police were dispatched to the scene.

After making the call, he saw the assailant drive away in the blue Chevrolet and noted the license plate number.

Mr. Solomon left the cab and ran back to the victim, but the man was already dead.

Remaining at the scene until the officers arrived, Solomon gave them a vivid description of the man, the vehicle and its license number.

An all points bulletin was sent out by the Greensboro Police Department; and at approximately 3:00 p.m., the Durham Police notified the Greensboro Police that the suspect has been apprehended in Durham.

Solomon accompanied the officers to Durham, voluntarily where he identified the suspect. Later he testified as a witness for the State in both the Municipal and the Superior Court.

At the award ceremony, Mayor Bain had nothing but the highest praise for Solomon.

"As Mayor of the City of Greensboro, I heartily commend, you Jimmy Douglas Solomon, Sr., for your participation in Community Radio Watch and in particular for the service you have rendered the Greensboro Police Department and your community.

"You have given your time generously. You stepped forward immediately without being asked. Your outstanding action leading to the apprehension and conviction of the assailant is an indication of your desire to contribute to the welfare of your community and your fellow man."

Solomon is 25, married, the father of four children. He lives at 741 Gillies Court, Greensboro.

This award was delayed at the request of the authorities so as not be detrimental to the trial of the assailant.

Community Radio Watch is sponsored by the Communications Division of Motorola, Inc., headquartered in Chicago. The program has been in operation in Greensboro since March 1967 and there are more than 900 drivers participating in the Community Radio Watch program in Greensboro. Mayor Bain asks drivers of radio equipped vehicles to act as the "eyes and ears" of the police and other public safety agencies, thus helping mankind through the use of two-way radio.

INTERNATIONAL WHEAT TRADE CONVENTION

Mr. DODD. Mr. President, on Thursday, June 13, I was one of the 23 Senators who opposed the International Grains Arrangement of 1967.

This was not a liberal-conservative issue, as is the case with so many of the issues that have come before Congress. The fact is that there were liberals and conservatives on both sides of this question. Essentially, it boiled down to economic commonsense.

The committee report defended the arrangement on the ground that it would benefit American wheat growers by establishing a higher minimum price and that it would, in consequence, have a beneficial effect on our balance-of-payments position.

Commenting on this argument, I said in my statement of June 13:

The arrangement will be bad for the wheat grower because it will increase the minimum world price of wheat by about 23 cents a bushel above the minimum established by the International Wheat Agreement, thus forcing the efficient U.S. grower to hold a protective umbrella over higher cost producers in foreign countries . . . It stands to reason that higher wheat prices will tend to increase production in countries that are a party to the agreement and countries that are not a party to the agreement . . . It stands to reason that some of this increased production is bound to find its way into the world market, so that our share of this market will inevitably contract . . . If our commercial wheat exports decline, this will, as the minority views point out, mean more wheat thrown on our domestic market which, in turn, would depress the price paid to U.S. farmers . . . A growing surplus in this country would inevitably result in further restrictions on acreage, while the nations that compete with us in the international wheat market would be expanding their own acreage.

I invite attention to a letter I received yesterday from the Connecticut Farm Bureau Association, Inc. The letter states, just as the critics of the treaty had warned, that the treaty is having consequences which are anything but good for the American farmer. In fact, almost immediately after the treaty was ratified, the Secretary of Agriculture acted to impose an export tax on wheat and to reduce wheat allotments for 1969 by 13 percent.

When a government makes an error in judgment in a situation like this, the chickens invariably come home to roost. But the chickens are coming home to roost much faster in this case than even the most ardent critics of the treaty could have contemplated.

I ask unanimous consent to have printed in the RECORD the text of the letter I received from the Connecticut Farm Bureau Association, Inc.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONNECTICUT FARM BUREAU
ASSOCIATION, INC.,

Hartford, Conn., June 27, 1968.

HON. THOMAS DODD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DODD: We wish to extend to you our sincere appreciation for your opposition to ratifying the International Wheat Trade Convention.

I have read your statement, given during the debate on June 13. Your analysis stated our concern precisely.

You probably are well aware that the Secretary, who has continually praised the IWTC as good for farmers, acted immediately to impose an export tax on wheat and a reduction in the national wheat allotment for 1969 of 13% exactly as we had feared.

We again commend you for your position on this matter.

With my best wishes, I am

Sincerely yours,

GEORGE W. SIMPSON, Jr.,

Executive Secretary.

THE POUND STERLING VERSUS THE U.S. DOLLAR

Mr. TOWER. Mr. President, on June 28, sterling opened in Zurich at 10.2385 Swiss francs bid, a new low. The U.S. dollar was 4.2975 with its parity at 4.373 Swiss francs. The U.S. dollar on the same day on Frankfurt's foreign exchange market was 3.99 with parity at 4.

The U.S. dollar is now caught in a pincer between continued weakness of the pound sterling and the deterioration of the French franc. No one can take any solace from France's problems. The French situation only adds to the preference for the standard gold and a general distrust of institutionalized paper, the fiat moneys of the world.

Not only is this a critical period for the U.S. dollar and pound sterling, but the Common Market and the French franc have also met difficulty. Should the request of France for cooperation with protectionist measures be denied at the upcoming meeting of the Common Market, a French devaluation is probable. It must be noted that even during the height of the French political crisis the French gold reserve was not fully utilized. France requested the Bank for International Settlement to withdraw all support of the French franc. The French then imposed currency exchange controls. They chose controls over full utilization of their reserves. It is illogical to consider that France will now allow their losses of both gold and currency reserves to continue at the present rate totaling \$1 billion equivalent so far. It is most probable that France will shortly devalue, supporting at a more realistic parity. They will by this action maintain the solvent nature of their national current assets versus liabilities as they attempt to correct their political difficulties.

A French devaluation will increase the strains on the international monetary systems. A protectionist movement in Europe is negative to the U.S. balance of payments.

We no longer can entertain pleasant sounding theory as the marketplace says plainly the time for corrective action has passed. France's difficulty demands immediate self-examination. Actions rather than inactions and the self-admission that not only can it happen here but that it is now happening here each day as the dollar fails the market test when it sells below parity in foreign exchange. Furthermore, the specter of pound sterling looms ominously above at 2.826 versus the U.S. dollar.

CRISIS IN EDUCATION FINANCE: BILINGUAL EDUCATION APPROPRIATION DESTROYED BY HOUSE

Mr. YARBOROUGH. Mr. President, yesterday morning I appeared before the Subcommittee on Labor-HEW Appropriations to testify on H.R. 18037, the 1969 appropriations bill for the Department of Labor and the Department of Health, Education, and Welfare.

In general, my remarks point out the inadequate funding for education as the bill was reported by the House Appropriations Committee and the bill as passed by the House. In particular, I point out the need for funding of the

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
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Issued July 5, 1968
For actions of July 3, 1968
90th-2nd; No. 115

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HIGHLIGHTS: Senate committee voted to report dairy indemnity and grain inspection bills. House committee reported scenic rivers, Redwood National Park, and nationwide trails bills. House committee reported FHA loan bill. House received Public Law 480 conference report. House passed road authorization bill. House subcommittee voted to report co-op tax exemption bill. Rep. Arends stated farmer is "forgotten man."

SENATE

1. DAIRY. The Agriculture and Forestry Committee voted to report (but did not actually report) S. 3638, to extend the authority for indemnity payments to dairy farmers who are directed to remove their milk from markets because it contains certain chemical residues. p. D637

2. GRAINS. The Agriculture and Forestry Committee voted to report (but did not actually report) H.R. 15794, to amend the laws relating to the inspection and grading of grain. p. D638
3. LOANS. The Agriculture and Forestry Committee voted to report (but did not actually report) H.R. 15562, to extend the act which authorizes loans by the Secretary of Agriculture on leasehold interests in Hawaii. pp. D637-8
4. RECREATION. Passed as reported H.R. 9098, to revise the boundaries of the Badlands National Monument in S. Dak. The bill provides for transfer to Interior of about 253,000 acres of gunnery range lands declared excess to the needs of the Air Force. pp. S8167-8
5. RECLAMATION. Passed without amendment S. 3575, to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments. p. S8166
6. EMPLOYMENT. Agreed to H. Con. Res. 705, to express the sense of Congress that employment opportunities should be made available to veterans who return from military service in Vietnam and elsewhere. pp. S8165-6
7. WATERSHEDS. The Agriculture and Forestry Committee voted to report (but did not actually report) plans for works of improvement on certain watershed projects. p. D638
8. ADJOURNED until Mon., July 8. p. S8200

HOUSE

9. HIGHWAYS. Passed with amendment S. 3418, the highway authorization bill (pp. H5958-96). Agreed to an amendment by Reps. McCarthy and Cramer "to prevent Federal control over local parks and recreation areas in the future" (pp. H5960-63). Rejected a motion by Rep. Schwengel to recommit the bill (p. H5980). H. R. 17134, a similar bill passed earlier with amendments was tabled.
10. APPROPRIATIONS. Passed with amendments H.R. 18188, the Transportation Department appropriation bill (pp. H5996-6018). Rejected a motion by Rep. Gross to recommit the bill (p. H6018).
11. SCENIC RIVERS; REDWOOD NATIONAL PARK; TRAILS. The Interior and Insular Affairs Committee reported without amendment H.R. 18260, to provide for a national scenic rivers system (H. Rept. 1623); with amendment S. 2515, to authorize the establishment of Redwood National Park (H. Rept. 1630); and with amendment H.R. 4865, to establish a nationwide system of trails (H. Rept 1631). p. H6047
12. WILDLIFE; TECHNICAL SERVICES. The Rules Committee reported resolutions for the consideration of H.R. 11618, to prevent the importation of endangered species of fish or wildlife into the United States, to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to State law; and H.R. 16824, to extend for an additional year the authorization of appropriations under the State Technical Services Act of 1965. p. H6047

Daily Digest

HIGHLIGHTS

Senate passed eight measures on calendar call.

House passed Federal-aid highway bill; Department of Transportation appropriation; and District of Columbia revenue bill.

Senate

Chamber Action

Routine Proceedings, pages S 8165-S 8199

Bills Introduced: One bill and one resolution were introduced, as follows: S. 3733; and S. Res. 313.

Pages S 8170-S 8171

Bill Reported: Report was made as follows: S. 2159, to establish the Fort Point National Historic Site in San Francisco, with amendments (S. Rept. 1362).

Page S 8170

President's Communication—Budget Amendment: President transmitted communication with proposed amendment to the budget for fiscal year 1969 in the amount of \$1,430,305 for legislative branch, Senate, which was referred to Committee on Appropriations, and ordered to be printed as a Senate document.

Page S 8169

Calendar Call: On call of calendar Senate passed eight measures, as follows:

With amendment, to be sent back to House:

Indians: H.R. 9098, to revise the boundaries of the Badlands National Monument, S. Dak.

Without amendment and cleared for House:

Crime: S. 3679, to correct certain technical errors in Public Law 90-351, Safe Streets and Crime Control Act;

Water resources: S. 3575, authorizing Secretary of the Interior to engage in feasibility studies of certain water resource developments;

Indians: S. 2715, providing for disposition of judgment funds in favor of the Chickasaw Nation or Tribe of Oklahoma;

Indians: S. 3620, providing for disposition of judgment funds to credit of the Quechan Tribe of the Fort Yuma Reservation, Calif.; and

Indians: S. 3621, providing for disposition of judgment funds in favor of the Muckleshoot Indians.

With amendment and cleared for House:

Indians: S. 1764, to repeal the law which limits certain inheritances of deceased Yakima Indians to tribal members of one-fourth or more degree of Indian blood.

Resolution adopted with amendments:

Vietnam veterans: H. Con. Res. 705, to assist veterans of the Vietnam war in obtaining suitable employment.

Pages S 8165-S 8168

Indians: Senate concurred in House amendments to S. 2701, providing for the sale or exchange of certain tribal lands on the Flathead Reservation, Mont. This action cleared bill for President's signature.

Pages S 8168-S 8169

Juvenile Delinquency: H.R. 12120, proposed Juvenile Delinquency Prevention and Control Act, remained Senate's unfinished business at adjournment.

Confirmations: Senate confirmed one civilian nomination; three Air Force nominations in the rank of general, including that of Gen. John P. McConnell to be Chief of Staff, U.S. Air Force; two Army in the rank of general; and eight Navy in the rank of admiral.

Page S 8200

Quorum Call: One quorum call was taken today.

Page S 8199

Program for Monday: Senate met at 9 a.m. and adjourned, in the absence of a quorum, at 11:19 a.m. until noon Monday, July 8, pursuant to provisions of H. Con. Res. 792, providing for adjournment of Congress at the close of business July 3 until noon Monday, July 8. On Monday Senate will consider H.R. 12120, juvenile delinquency control, to be followed by H.R. 18038, legislative appropriations.

Page S 8200

Committee Meetings

(Committees not listed did not meet)

COMMITTEE BUSINESS

Committee on Agriculture and Forestry: Committee, in executive session, ordered favorably reported S. 3638, extending authority for indemnity payments to dairy farmers who are directed to remove their milk from markets because it contains certain chemical residues; H.R. 15562, extending the act which authorizes loans

by the Secretary of Agriculture on leasehold interests in Hawaii; H.R. 15794, to amend the laws relating to the inspection and grading of grain; and the nominations of J. Homer Remsberg, of Maryland, and C. Everett Spangler, of Nebraska, to be members of the Federal Farm Credit Board.

Committee also approved the following watershed projects: Chicot, Ark.; California Lake, Fla.; Suwanee Creek, Ga.; Waubonsie Creek, Iowa; Delaney Creek, Ind.; Lower Salt Creek, Kans.; Midland-Drayton, N.

Dak.; Beaverdam Creek, S.C.; and Los Fresnos Resaca, Tex.

CITY RIOTS

Committee on Government Operations: Permanent Subcommittee on Investigations continued its series of hearings on riots in American cities, with testimony with regard to reported inadequacies and improprieties in the administration of certain Office of Economic Opportunity programs in Chicago from Lt. Edward Buckney, Chicago Police Department.

Hearings continue on Tuesday, July 9.

House of Representatives

Chamber Action

Bills Introduced: 24 public bills, H.R. 18326-18349; 16 private bills, H.R. 18350-18365; and six resolutions, H.J. Res. 1384-1386, H. Con. Res. 793-794, and H. Res. 1244, were introduced.

Pages H 6048-H 6049

Bills Reported: Reports were filed as follows:

H.R. 18260, to provide for a national scenic rivers system (H. Rept. 1623);

S. 1260, to amend the Northwest Atlantic Fisheries Act of 1950 (H. Rept. 1624);

H.R. 15626, to amend the Subversive Activities Control Act of 1950, amended (H. Rept. 1625);

H. Res. 1244, providing for the consideration of H.R. 11618, regarding fish and wildlife (H. Rept. 1626);

H. Res. 1245, providing for the consideration of H.R. 16024, relating to high-speed ground transportation (H. Rept. 1627);

H. Res. 1246, providing for the consideration of H.R. 16824, to extend for an additional year the authorizations under the State Technical Services Act (H. Rept. 1628);

S. 945, to abolish the office of U.S. Commissioner, amended (H. Rept. 1629);

S. 2515, regarding Redwood National Park, Calif., amended (H. Rept. 1630);

H.R. 4865, to establish a nationwide system of trails, amended (H. Rept. 1631);

S. 633, regarding the Foreign Service Information Officer Corps, amended (H. Rept. 1632);

S. 1418, regarding passport laws, amended (H. Rept. 1633);

H.R. 15757, to amend the Public Health Service Act, amended (H. Rept. 1634);

H.R. 18209, to amend the consolidated Farmers Home Administration Act, amended (H. Rept. 1635);

S. 2658, regarding vehicle weight and width limitations, amended (H. Rept. 1636);

H.R. 12801, regarding national cemetery system for veterans, amended (H. Rept. 1637);

S. 1752, regarding fishing vessels (H. Rept. 1638);

H.R. 17685, to amend the Federal Aviation Act, amended (H. Rept. 1639);

S. 660, regarding Great Lakes Basin Compact (H. Rept. 1640);

H.R. 15681, relating to reimbursable military exports (H. Rept. 1641);

Conference report on S. 2986, to extend Public Law 480, 83d Congress, for 3 years (H. Rept. 1642);

H.R. 12698, to amend the Federal Power Act, amended (H. Rept. 1643); and

H.R. 12843, regarding National Eye Institute, amended (H. Rept. 1644).

Pages H 6047-H 6048

Permission To Receive and Sign: On Tuesday, July 2, 1968, the House granted permission that notwithstanding the adjournment of the House until Monday, July 8, 1968, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

Page H 5898

Late Reports: Granted permission for the Committee on Education and Labor to file a late report by midnight, July 6, on H.R. 15067, the higher education amendments; and granted the same permission to the Committee on Armed Services on S. 3293, to authorize appropriations for military procurement, on July 5.

Page H 5958

Federal-Aid Highway Act: The House passed by a voice vote H.R. 17134, the Federal-Aid Highway Act of 1968.

Subsequently vacated this passage and passed S. 3418 in lieu after amending the Senate-passed bill to contain the House-passed language.

Rejected by a voice vote a motion to recommit with instructions to strike language providing for District of Columbia highways. Prior to adoption of the committee amendment adopted amendments regarding:

The prevailing rate of wage;

Preservation of park lands;

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

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OFFICE OF BUDGET AND FINANCE
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Issued July 10, 1968
For actions of July 9, 1968
90th-2nd; No. 117

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HIGHLIGHTS: Senate committee reported grain inspection bill. Senate debated question of committee jurisdiction on school lunch bill. House debated housing bill. House subcommittee tabled egg marketing bill. House subcommittee approved wilderness bills. House committee voted to report bill to implement International Coffee Agreement.

HOUSE

1. HOUSING. Continued debate on H. R. 17989, to assist in the provision of housing for low- and moderate-income families, and to extend and amend laws relating to housing and urban development. pp. H6118-168
2. MILITARY CONSTRUCTION. Received the conference report on H. R. 16703, the military construction authorization bill which includes CCC debt payment for prior years military family housing overseas (H. Rept. 1658). pp. H6168-79

3. WILDERNESS. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action H. R. 16771, amended, to designate certain lands in the Great Swamp National Wildlife Refuge, N. J., as wilderness; and H. R. 13512, to designate the Mount Jefferson Wilderness, Willamette, Deschutes, and Mount Hood National Forest, Oreg. p. D651
4. TRADE FAIRS. A subcommittee of the Merchant Marine and Fisheries Committee approved for full committee action H. R. 18340, to provide for the continuation of authority to develop American flag carriers and promote the foreign commerce of the United States through the use of mobile trade fairs. p. D651
5. COFFEE. The Ways and Means Committee voted to report (but did not actually report) H. R. 18299, amended, to carry out the obligations of the U. S. under the International Coffee Agreement, 1968 (p. D652). The committee was given until Thurs., midnight, July 11, to file a report (pp. H6117-18).
6. EGGS. A subcommittee of the Agriculture Committee tabled H. R. 15537, the table egg marketing bill. p. D651
7. FEDERAL AID. Rep. Roth emphasized the "immediate need" for legislation to create a catalog of Federal assistance programs and inserted supporting material. pp. H6184-5
N.Y.
8. HOLIDAYS. Rep. Rooney/expressed gratification that Columbus Day was included in the "weekend holiday" legislation. pp. H6185-6
9. TAXATION; EXPENDITURES. Rep. Hall criticized passage of the Revenue-Expenditure Control Act and inserted an article from Newsweek magazine stating "why this tax bill is the 'wrong medicine' for what ails our country." pp. H6186-87

SENATE

10. GRAINS. The Agriculture and Forestry Committee reported with amendments H. R. 15794, to provide for U. S. standards and a national inspection system for grain (S. Rept. 1351). p. S8296
11. APPROPRIATIONS. Passed with amendments H. R. 18038, the legislative branch appropriation bill, 1969 (pp. S8316-23). Conferees were appointed (p. S8323). House conferees have not been appointed.
The Appropriations Committee voted to report (but did not actually report) with amendments H. R. 17023, independent offices and HUD appropriation bill, 1969. p. D649
A subcommittee of the Appropriations Committee approved for full committee consideration "those sections of the public works appropriations (H. R. 17903) which provide funds for the Atomic Energy Commission and the Tennessee Valley Authority." p. D649
12. TRADE. Began consideration of S. 3065, to amend the Federal Trade Commission Act, as amended, by providing for temporary injunctions or restraining orders for certain violations of that act. p. S8333

U.S. GRAIN STANDARDS ACT

JULY 9, 1968.—Ordered to be printed

Mr. JORDAN of North Carolina, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H.R. 15794]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SHORT EXPLANATION

This bill would revise the U.S. Grain Standards Act. The significant changes made by it are as follows:

(1) Inspection would not be required for any shipment of grain in domestic commerce, except grain in a container bearing a grade designation;

(2) Additional inspection services, such as inspection of U.S. grain in Canadian ports (now furnished under the Agricultural Marketing Act of 1946), protein tests, and weighing of sacked grain, would be available upon request (now only grading services in the United States are available under the act);

(3) The lead time for effecting changes in the standards would be increased from 90 days to 1 year;

(4) Submitted samples could be used in lieu of official samples in official inspection of interstate shipments and of grain in Canadian ports;

(5) Samplers and laboratory technicians employed by official inspection agencies would be required to have licenses;

(6) Inspectors' licenses would be issued for 3-year periods (instead of permanently); and

(7) New enforcement procedures would be provided, including refusal of inspection service; examination of records; subpoena power; exemption from prosecution of witnesses compelled to give self-incriminating testimony; additional specified offenses; and increased penalties.

PRINCIPAL PURPOSE

The principal purpose of the bill is to make inspection with respect to interstate grain shipments permissive, rather than mandatory, in all cases except grain in a container bearing a grade designation. At present inspection is mandatory where the grain is sold in interstate commerce by grade if a licensed inspector is located at the point from which, or to which, the grain is shipped. In its letter requesting this legislation, the Department points out that transportation methods have changed greatly since the act was passed. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. (Under point-to-point rates, the carrier limits the time for loading and unloading, permits no diversion or rerouting, and permits no stops for inspection.) Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade even though official inspection of much of such grain is technically required by the act. To provide official inspection for trucklot grain would require stationing official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandizing the grain and would apparently serve no useful purpose to the trade. Furthermore, the Department asserts that it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under special point-to-point rates. It is also discriminatory to require the official inspection of grain shipped from or to a place where a licensed inspector is located and not require the official inspection of grain shipped from or to other points.

COMMITTEE CONSIDERATION

The committee's Subcommittee on Agricultural Research and General Legislation held hearings on June 17 on S. 272, S. 2069, and H.R. 15794. S. 2069 and H.R. 15794 are companion bills, but H.R. 15794 contains a number of improvements made by the House of Representatives. Both of these bills would accomplish the objectives of S. 272, to permit use of submitted samples where that is desired. All witnesses who desired to testify were heard, and witnesses were generally favorable. The National Association of State Departments of Agriculture and the National Association of Chief Grain Inspectors offered a number of amendments, most of which were directed to maintaining requirements for inspection of interstate shipments. Since these amendments were contrary to the basic objectives of the bill, the committee rejected them. An amendment of a technical nature proposed by the National Association of State Departments of Agriculture was adopted, and another amendment proposed by the chief grain inspectors was adopted in part. They will be referred to in the discussion herein of committee amendments.

Several witnesses testified that the bill would do much to relieve the freight car shortage by eliminating the need to hold cars for inspection. In addition to aiding in the movement of grain, this

should result in considerable savings to the trade and the railroads in demurrage and equipment charges.

COMMITTEE AMENDMENTS

The committee amendments would make the following substantive changes in the bill.

(1) They would permit fees for appeal and Canadian port inspections and proceeds from the sale of samples to be deposited in a revolving fund and used to provide inspection service rather than being covered into miscellaneous receipts in the Treasury. This amendment would restore language which was proposed by the Department of Agriculture and contained in H.R. 15794 as it was introduced, but which was deleted by the House. The Department requested the committee to restore the original language and furnished the following information in support of this request:

First, we are opposed to the House action in amending section 7(e) and section 19 in H.R. 15794. These amendments require that all fees received for appeal inspections and Canadian port inspection of U.S. grain and all proceeds from the sale of samples shall be deposited as miscellaneous receipts in the U.S. Treasury. The U.S. Grain Standards Act was amended in 1958 to provide that the Department could accept reimbursement for overtime, night, or holiday work in connection with appeal inspections. Currently, these charges are deposited in a special fund for our use in meeting these extra costs. They amount to about \$100,000 per year and are needed to pay the extra compensation to Federal inspectors who perform this kind of work.

The inspection service in Canada for U.S. grain shipments at certain points along the St. Lawrence Seaway is provided on a fee-supported basis and no appropriated funds are involved. Seasonal fluctuation in the workload on the St. Lawrence requires the services of from two to seven inspectors at different times during the year. Collections in Canada this year will amount to approximately \$75,000.

Unless the authorization for the Department to retain these funds is kept in the bill, it will be necessary to request an increase in the 1969 appropriation of between \$175,000 to \$200,000.

There are sound reasons why the revolving fund arrangement, as initially provided in H.R. 15794 and as provided in S. 2069, is best. The grain trade wants and needs appeal inspection in the United States. This is true also of initial inspections of U.S. grain moving through Canada for export. The volume of appeal inspections in the United States, including overtime fees, and the volume of inspections of U.S. grain in Canada varies from year to year. It is impossible, therefore, to estimate accurately in advance the funds which will be needed to provide these services. During the last 5 years the number of appeal inspections has ranged from 24,651 to 37,433 yearly; the overtime fees for appeal inspections have ranged from \$75,551 to \$147,200; and the volume of inspections of U.S. grain in Canada has ranged from 1.5 to 2.9 million tons.

We strongly urge that, as originally provided in H.R. 15794 and as provided in S. 2069, the Department should be au-

thorized to use all appeal fees which are collected and retained and all money obtained from the sale of surplus Federal samples of grain to partially offset its cost under the U.S. Grain Standards Act. During the last fiscal year, these collections amounted to about \$700,000. It is the Department's recommendation that it should retain these collections and that there should be a corresponding reduction made in the Federal appropriation. This would result in reducing the 1969 appropriation for the administration of this act from about \$2.9 million to about \$2.2 million.

The reason for this recommendation is that the volume of appeal work is highly unpredictable. It fluctuates greatly by markets and by seasons. Also, no one can foretell what the effect of the proposed revision of the act may be in increasing or decreasing the number of appeals received from grain shippers or buyers. Therefore, it would be highly advantageous for the Department to be authorized to use the appeal fees which it retains so that the available funds can be more closely correlated with the appeal inspection workload.

It should be noted that while the bill, with this committee amendment, would provide that the Department would retain the fees and charges which it collects for appeal inspections, the bill would not make any provisions for the Department to share in any of the fees or charges which are assessed and collected by the official inspection agencies. It is intended, therefore, that the Department's costs of providing supervisory and administrative services under the act will be borne by appropriated funds and, except for inspections in Canada, not by inspection fees.

(2) The committee amendments would authorize the Secretary to refuse inspection service on account of repeated or flagrant violations, without the necessity of a conviction. This amendment was requested by the Department of Agriculture, which advised the committee as follows:

Secondly, we are opposed to the House action in amending section 10(a) from the original provision of H.R. 15794 so as to authorize withdrawal of inspection service as an administrative sanction against violations of the act only if the person had first been "convicted" of a criminal violation. We believe that the original wording of H.R. 15794 under which such withdrawal would be authorized in case of commission of "any repeated or flagrant violation" should be retained. Otherwise, the constructive contribution of section 10 in protecting the integrity of the official grain inspection service is largely nullified. Criminal convictions against individuals or business firms for violation of agricultural statutes like this one are rare. In many instances, although the violation may be irrefutable, the identity of a person cannot be established adequately for the purpose of filing criminal charges. Effective means are needed to protect the great majority of the industry against the actions of a few dishonest persons. We believe that, in order to provide this protection, section 10(a), as set forth in H.R. 15794 originally, should be retained.

Further, we believe that adequate safeguards against any capricious or unreasonable use of this administrative author-

ity is provided in H.R. 15794 because service cannot be withdrawn except in cases in which it is determined that the person or firm has committed "repeated or flagrant violation" of section 13 of the act and that providing inspection would be inimical to the grain inspection service. Further, before inspection can be refused, the respondent must be afforded opportunity for a hearing at which all evidence against him must be produced by the Department, and any decision by the Department to refuse service is subject to review by a Federal district court prior to withdrawal.

The Department advised the committee that the most common example of flagrant or repeated violation is that where inspection certificates are altered. In some cases there are numerous altered inspection certificates for various lots of grain in which a single company is interested. It may be difficult to ascertain the individual or individuals who made the alterations and obtain criminal convictions. The only way to protect the integrity of the inspection service is to withdraw inspection.

(3) Section 7(f) of the act, as it would be amended by the bill, prohibits the operation of more than one inspection agency at one time for any one area. At the present time there is at least one area in the country in which two agencies are authorized to operate. As passed by the House, section 7(f) would require revocation of the authority of one of these agencies. The committee did not feel that it was appropriate to legislate one of these agencies out of business, and has therefore recommended an amendment making section 7(f) inapplicable to prevent any inspection agency from operating in any area in which it is operative on the date of enactment of the bill. The National Association of Chief Grain Inspectors recommended a somewhat similar amendment.

In addition to these three substantive changes, the committee has recommended a number of technical corrections. Most of these, such as corrections in spelling and punctuation, need no explanation. Those that may require some explanation are as follows:

(A) The National Association of State Departments of Agriculture suggested that it be made clear that withdrawal of an inspector's license for improper inspection be authorized only where the inspection was "knowingly or carelessly" made in an improper manner. The committee has recommended this clarification.

(B) The definition of "official inspection" would be amended to make it consistent with section 7(b) and to make it clearly applicable to bulk grain, except with respect to quantitative determination. Quantitative determination would clearly be restricted to sacked grain.

(C) Section 6 would be amended to avoid any inference that sale by proprietary brand or trademark would constitute a sale by grade in the case of an export sale.

(D) Section 12(b) would be amended to provide specifically that, before prescribing the period for which samples must be retained, the Secretary would consult with the grain trade and take into consideration the needs and circumstances of local markets. This would carry out in the statute the intention of the House of Representatives and the Department of Agriculture as expressed in the Congressional Record at pages H4438 and H4439 on May 29 as follows:

Mr. MAHON. In reading through the language of the bill, I call the gentleman's attention to the provision in section 12(b), where it states, and I quote:

"That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary shall prescribe."

It has been called to my attention that a number of inspection agencies have expressed a great deal of concern over the wording of that section, due to the undue burden and strain on storage facilities that would occur in the event that the Department of Agriculture chooses to require these grain samples to be maintained for a full 90 days. In a volume operation such as that conducted by many of these exchanges, these samples will quickly accumulate, creating storage problems, and additional expense to comply with such a requirement.

Accordingly, I want to inquire of the gentleman, as author of the bill before us, and as chairman of the subcommittee examining this legislation, whether or not it is the intent of this bill that the grain samples will be maintained for a full 90 days? I hope the gentleman will clarify the whole matter.

Mr. PURCELL. I thank the gentleman for raising this point, and I will be happy to clarify what is involved.

The 90-day figure referred to in section 12(b) represents a limitation for the period that the grain sample can be required to be maintained. Since the legislation also deals with export grain, it was necessary to use a longer period than would be necessary for samples of grain shipped within the United States. There is little reason for requiring a sample to be kept more than a limited time after the arrival of the grain at its destination, and naturally, this will be a function of the distance the grain is to be transported, and the mode of transportation.

It is the intent of the bill that the Secretary will study the transportation statistics, and provide reasonable figures for retention of the sample which should be worked out with the grain industry itself. Certainly there would be no call for shipments of grain via barge or rail to be maintained for 90 days. A reasonable figure, in view of the needs of the trade, and the need to always insure the orderly marketing of grain would be 45 days for shipment by barge, and 15 days for truck or rail shipment. There would certainly be no need to require the sample to be kept beyond these limitations, except in the most peculiar circumstances.

In order that factors that would affect the ultimate decision on this matter might be more readily available, I asked the Department of Agriculture to comment on this problem. I have with me a letter from Mr. George Grange, Deputy Administrator for Marketing Services, indicating what factors will influence the final decision, which would be within the guidelines I have mentioned.

At this point, I insert Mr. Grange's letter in the record:

U.S. DEPARTMENT OF AGRICULTURE
 CONSUMER AND MARKETING SERVICE,
 Washington, D.C., May 23, 1968.

HON. GRAHAM PURCELL,
House of Representatives.

DEAR MR. PURCELL: This is in response to your request for further details concerning the Department's plans for implementing the provision in H.R. 15794 under which inspection agencies would be required to maintain file samples of grain for a period of time not in excess of 90 days.

Our grain inspection officials intend to require that the file samples be retained until normal transit time to destination and normal unloading time have expired. This will give inspectors an opportunity to check the file sample whenever there are complaints or questions concerning the initial certification. If the grain dealers are to trade on the basis of U.S. grades and official inspection certificates, they should have this opportunity for review of file samples while the transaction is still in process if the service is to be of maximum usefulness.

The retention time would vary dependent upon destination and mode of transportation. Domestic shipments by truck and rail would require the shortest time and export shipments the longest.

The retention times would be part of revised regulations which would not become effective until 180 days after enactment of H.R. 15794. These regulations, under the Administrative Procedures Act, would involve the issue of a rule-making proposal and consideration of views and comments from interested persons prior to final promulgation.

We believe that reasonable and realistic retention periods for grain samples can be established which will meet the needs of the grain industry and, at the same time, will not overtax the facilities of Federal, State, or private grain inspection offices.

We hope that this information provides the additional details on this matter which you desired.

Sincerely yours,

G. R. GRANGE,
Deputy Administrator, Marketing Services.

I hope that this helps answer the gentleman's question. This bill has been carefully worked out in order to meet the needs of all, but occasionally there may be questions still to be answered. In a similar vein, there was a question raised as to whether or not cottonseed is included under this bill. It is not.

I would also hope that members of the grain trade are aware of the outstanding job that my distinguished colleague has done in calling this problem to our attention. I learned immediately after coming to Congress that when he speaks, all within the sound of his voice should listen. I know of no man for whom I have greater respect.

MR. BELCHER. Mr. Speaker, will the gentleman yield?

MR. PURCELL. I yield to the distinguished minority leader of our Agricultural Committee.

Mr. BELCHER. I thank the gentleman for yielding, and I am glad that the gentleman from Texas clarified this matter, because to maintain these samples for 90 days would in some instances be almost impossible. In Enid, Okla., for example, they have unloaded as many as 2,177 carloads of wheat and sampled them in a 21-hour period, and the gentleman can see how many samples would be needed, as the grain inspector at Enid, Okla., described it to me. He said that we would have to build another warehouse just to store these samples. So I am glad the gentleman has gotten this matter cleared up, because, as I say, it would be an absolute impossibility to keep all the samples for 90 days.

Mr. PURCELL. That is correct, and I wish to assure the gentleman from Oklahoma, just as I have endeavored to assure the gentleman from Texas (Mr. Mahon) that after passage of this bill it will take 180 days before it goes into effect. The Department of Agriculture assures me that they will hold hearings and make detailed studies as to the practical length of time in which to keep these grain samples. And, as I say, I am sure it will be in line with the good judgment of the trade itself.

(E) Section 20 of the act, as it would be amended by the bill, would be redesignated as section 2 of the bill. This would make it clear that this section relates to the effective date of the amending bill, rather than the effective date of the original act.

SECTION-BY-SECTION EXPLANATION

The bill is composed of two sections. The first section completely revises the U.S. Grain Standards Act. The following analysis therefore will refer to sections of the U.S. Grain Standards Act, as it would be revised by the bill, unless otherwise indicated.

Section 1. Short title. This section provides a short title "U.S. Grain Standards Act" identical to that provided by existing law, except for capitalization.

Section 2. Declaration of policy. This section contains a declaration of policy. The present law does not contain such a declaration, but this section does not appear to indicate any change in the general objective of the law.

Section 3. Definitions. This section contains a number of definitions of terms used in the act, and, in general, needs no explanation. The only definitions now contained in the law are those for "person" and "interstate or foreign commerce." This section adds a catchall "or other business entity" to the definition of "person," and amends the present definition of "interstate or foreign commerce" to exclude commerce solely within a territory or the District of Columbia. The term "United States" is defined to include Puerto Rico and the territories and possessions, and the term "State" is defined to include Puerto Rico and any territory or possession, and the District of Columbia.

Section 4. Standards. Section 4 authorizes the Secretary of Agriculture to establish and amend standards for grain. It differs from existing law in that it specifically provides for standards of kind and class, as well as of quality and condition. It would also specifically require the Secretary to give interested persons the opportunity to present views orally and otherwise. Present law requires 90 days public notice before standards are established or modified. This sec-

tion would provide a full year's notice, unless the Secretary determined that the public health, interest, or safety required a shorter effective date.

Section 5. Official inspection requirements for export grain. This section requires that grain sold by grade and exported be officially inspected, unless the Secretary determines that official inspection is impracticable. This section is derived from existing section 4, which now covers both export grain and grain sold in interstate commerce, and provides both for inspection and for required use of U.S. standards.

Proposed section 5 does not cover interstate grain (which would thus be freed of inspection requirements), does not require that the grade by which the grain is sold be a grade fixed in the U.S. standards (that being left to proposed sec. 6), and does not make the exceptions now contained in existing section 4 as to point of origin inspection for grain shipped from, to, or through an inspection point or as to grain shipped from a point at which no licensed inspector is located to a point at which no licensed inspector is located. These exceptions do not appear important in the case of export grain, since inspectors are generally located at ports of exportation, and proposed section 5 permits waiver of the inspection requirement where it is not practicable to provide inspection.

Proposed section 5 is somewhat more specific than existing law in requiring that samples be taken after final elevation as the grain is being loaded aboard, or while it is in the export carrier; and adds a new requirement that the shipper furnish the consignee an official grade designation of the grain.

Section 6. Required use of official grade designations. Section 6 requires the use of official grade designations in any sale by grade in interstate or foreign commerce; and prohibits any person in any sale and exportation from describing grain by a false or misleading description. Proposed section 6, like proposed section 5, is derived from existing section 4, which provides both for inspection and required use of U.S. standards. Section 6 relates only to the required use of U.S. standards. All sales by grade, whether interstate commerce sales or export sales, would have to be described by U.S. standard grades. Inspection would not be required, except in the case of exports.

Concern has been expressed that the second part of the proviso in section 6(a) could lead to the widespread practice of offering wheat, in particular, for sale on the basis of other than official grade designations. If carried to the extreme, it is argued that such a practice would lead to disorder in wheat marketing.

The purpose of the U.S. Grain Standards Act is to meet the legitimate needs of producers, the grain trade, and others having an interest in grains. To that end, it is the stated objective of H.R. 15794 to insure that grain may be marketed in an orderly manner and that trading in grain may be facilitated.

Should this objective not be met, the Department of Agriculture should so inform the Committee.

Section 7. Official inspection authority and funding. Subsection (a) authorizes the Secretary to cause official inspection to be made of grain shipped for export.

Subsection (b) authorizes the Secretary to cause official inspection to be made of grain shipped in interstate or foreign commerce or U.S. grain shipped from Canadian ports. In the case of grain covered by by subsection (b), inspection would be by official sample, submitted

sample, or otherwise; and inspection might be in accordance with standards promulgated under the act or under other criteria approved by the Secretary.

Subsection (c) requires that the regulations issued by the Secretary include provisions for reinspections and appeal inspections and provides that samples obtained by or for employees of the Department shall become the property of the United States. Existing section 6 is slightly more explicit about reinspections and appeal inspections than proposed subsection (c) and requires that appeals be taken before the grain moves from the place where the inspection appealed from was made.

Subsection (c) also provides authorization to dispose of official samples obtained by or for employees of the Department as Federal property without regard to the Federal Property and Administrative Services Act. No provision is made for obtaining and disposing of such samples in the present act. The Federal Property and Administrative Services Act provides, in part, for competitive bidding and for negotiated sales. Grain samples are of limited value and are frequently difficult to sell at any price.

Subsection (d) makes inspection certificates prima facie evidence of the facts stated therein. Existing section 6 contains a similar provision making the findings of the Secretary on appeal prima facie evidence of the true grade of the grain. Subsection (d) would extend this provision to certificates issued by any official inspection personnel and to cover all matters covered by the certificate.

Subsection (e) authorizes the Secretary to charge reasonable fees to cover the total cost of official inspection, except when the inspection is performed by employees of an official inspection agency. Such fees, less any proceeds from the sale of samples, are required to cover, as nearly as practicable the costs of the Department of Agriculture incident to appeal inspections and inspections in Canadian ports, including supervisory and administrative costs related to appeal inspections and inspections in Canadian ports. Existing law provides for reasonable appeal fees and overtime, holiday, and night work fees, the appeal fees to be refunded if the appeal is sustained. While subsection (e) is more specific than existing law as to the total amount of fees to be charged, and does not require appeal fees to be refunded where the appeal is sustained; the Department has advised informally that no change is contemplated in the present system of charging Federal appeal fees.

Subsection (f) provides that not more than one inspection agency shall be operative at one time for any one city, town, or other area. This provision is new, but in practice, with one exception only one inspection agency has been designated per city, town, or other area. The committee amendment is designed to permit the two agencies now operating in one area in Louisiana to continue to operate, as it does not appear necessary or appropriate to legislate either of them out of business.

Section 8. Licenses and authorizations. Section 8 authorizes the Secretary (1) to license individuals to perform inspection functions, and (2) to authorize Department employees to perform supervisory or appeal inspection work or initial inspection of U.S. grain in Canadian ports. Licenses would terminate triennially, and the licenses would not be issued or continued in effect unless the licensee was employed by an official inspection agency, or was operating independently under the terms of a contract with the Department of Agriculture. The Department advises that the provision with respect to contractors is designed to cover laboratory technicians, samplers, and similar personnel that

may perform special supervisory or appeal inspection services at the request of the Department.

At present neither the law nor the Secretary's regulations require license renewal. Under proposed section 8, the Secretary would not be required, as he is at present, to issue licenses to all inspectors employed by State grain departments.

At present, the Secretary is authorized to issue licenses only to inspectors to inspect, grade, and certificate the grade of grain. Samplers and laboratory technicians who perform official inspection functions are not now required to have licenses. Present licensees are not required by the act to be employed by an official inspection agency or under a contract with the Department.

Subsection (d) provides that persons employed by an official inspection agency or performing official inspection functions under a contract with the Department shall not be deemed to be employees of the Federal Government. At present, there is no specific provision in the act on this point.

Section 9. Suspension or revocation of licenses. Section 9 authorizes the Secretary to suspend or revoke any license after opportunity for a hearing because the licensee—

- (1) is incompetent;
- (2) has inspected grain by standards other than provided for in the act;
- (3) has caused the issuance of a false or incorrect official certificate, or official form, or knowingly or carelessly inspected grain improperly;
- (4) has accepted any consideration for any neglect of duty;
- (5) has used or allowed his license to be used for any improper purpose; or
- (6) has otherwise violated the act or the regulations under it.

A license may be suspended without hearing whenever the Secretary deems such action to be in the best interests of the official inspection system. The ground specified in clause (5) is a newly specified ground and some of the other grounds have been refined somewhat, but since the ground described in clause (6) is contained in both existing section 7 and proposed section 9, the grounds for suspension or revocation will be substantially unchanged.

Section 10. Refusal of official inspection. This section would provide the Secretary with an enforcement power he does not now have. Under it he could, after opportunity for hearing and for as long as he deemed necessary to effectuate the purposes of the act, refuse inspection of any grain to any individual committing any repeated or flagrant violation of section 13 of the act if providing such inspection "would be inimical to the integrity of the official inspection service." Inspection could similarly be refused to (1) a partnership if any general partner committed such a violation; (2) a corporation if any officer or director or holder or owner of more than 10 percent of the voting stock committed such a violation; (3) an unincorporated association or other business entity if any officer or director committed such a violation; (4) any person who has been refused inspection of grain for a cause above described for a period which has not expired; or (5) any other person conducting a business with which a person denied inspection was, at the time such cause existed, or is responsibly connected. A person would be deemed to be responsibly connected with a business if he were a partner, officer, or director, or holder or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.

Section 11. Conflict of interest prohibited. Section 11 prohibits licensees from certain activities which might result in a conflict of interest. This section generally continues in effect the conflict-of-interest provisions of existing section 7, but extends them to include acceptance of gratuities and additional activities specified by regulation as involving a conflict of interest, and permits the Secretary to make such exceptions as are consistent with the purposes of the act, including exceptions to permit warehouse employees to perform official sampling functions.

Section 12. Records. This section requires official inspection agencies and licensees to maintain such samples and records as the Secretary may prescribe. At present, only licensed inspectors and the Secretary are required to maintain records. There is no provision for maintaining file samples.

Subsection (b) provides that the records shall be maintained by the official inspection agencies for 2 years except for grain samples which are to be kept for such period not over 90 days as the Secretary shall prescribe and except that the Secretary may in specific cases require other records to be kept for as long as 3 additional years. There is no retention period specified at present.

Subsection (c) would require official inspection agencies required to maintain records under the section to permit authorized representatives of the Secretary to have access thereto at all reasonable times. There is no such provision now.

Section 13. Prohibited acts. Section 13 prohibits violations of various provisions of the act and other actions designed to prevent the effective operation of the act. In general it contains prohibitions similar to those now contained in sections 9 and 10. The new prohibitions added by it are sections 13(a) (1) and (2) dealing with counterfeit certificates, forms, and devices; section 13(a)(4) dealing with altered samples; section 13(a) (5) and (6) dealing with false representations concerning the inspection of grain; section 13(a)(9) dealing with falsely representing oneself to be licensed; and section 13(a)(10) dealing with misrepresentation in applying for inspection.

Section 14. Penalties. This section imposes a penalty of up to 6 months in prison or up to \$3,000 fine, or both, for violations of section 13; except that for additional offenses committed after a conviction has become final the penalty may be imprisonment up to 1 year, or a fine of up to \$5,000, or both. Under existing law the maximum penalty is \$1,000, or imprisonment for 1 year, or both, in all cases. Section 14 contains a new provision relieving the Secretary of any obligation to report minor violations for prosecution when he believes the public interest will be served by a suitable written notice or warning.

Section 15. Responsibility for acts of others. This section makes no change in the law, being identical to a provision now contained in the first section of existing law. It provides that the act or omission of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall be deemed the act or omission of such association, partnership, or corporation.

Section 16. General authorities. This section authorizes the Secretary to conduct investigations, hold hearings, require reports from official inspection agencies and others, prescribe rules and regulations, and adopt procedures for determining whether any certificate, form, or representation is false or misleading. Prescription of rules and regulations is now authorized by section 8 of existing law. This section also

provides that proceedings for refusal to renew or for suspension or revocation of licenses or for refusal of inspection service shall not be subject to the hearing and decision provisions of 5 U.S.C. 554, 556, and 557, unless requested by the respondent.

Section 17. Enforcement provisions. Section 17 makes applicable to the administration of this act provisions similar to certain provisions in sections 6, 8, 9, and 10 of the Federal Trade Commission Act and section 409(l) of the Communications Act of 1934. This section provides for examination of records; issuance of subpoenas; attendance of witnesses (to be enforced through court procedure); witness fees; penalties for failure to attend and testify; exemption from prosecution of witnesses compelled to give self-incriminating testimony; prohibiting disclosure by Department employees of information obtained under the act; and conferring jurisdiction on the U.S. district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the U.S. courts of the other territories and possessions of jurisdiction of cases arising under the act. These enforcement provisions are not in the existing act.

Section 18. State and local laws, separability. Subsection (a) provides that no State or subdivision thereof may require inspection or description under any standards as a condition of shipment or sale of grain in interstate or foreign commerce. (Only a few States have such requirements.) It provides further that no State or subdivision may require a license for, or impose other restrictions on, performance of official inspection functions by official inspection personnel, and provides that otherwise nothing in the act shall invalidate any State or local law not in conflict with the act. There are no such provisions at present.

The purpose of section 18(a) is to prohibit a State from negating or contravening the permissive inspection provision relating to grain which is being merchandized in interstate commerce. Therefore, it would invalidate any State laws or regulations which would impose any different inspection requirements on grain which is being merchandised in interstate commerce. The bill would not, however, invalidate any State law or regulation, pertaining to the warehousing of grain within such State, which requires the inspection or weighing of grain whenever it moves into or out of public warehouses or other designated warehouses throughout the State or at designated markets in the State.

Subsection (b) provides that the invalidity of any provision shall not affect the remainder of the act. This is substantially similar to existing section 11.

Section 19. Appropriations. This section authorizes the appropriation of such sums as are necessary to carry out the act.

Section 20 of the bill. Effective date. This section provides that the amendments made by the bill shall become effective 180 days after enactment, except that repeal of mandatory inspection requirements for interstate grain shall be effective 30 days after enactment.

DEPARTMENTAL VIEWS

Attached are a letter from the Secretary of Agriculture requesting enactment of a Senate companion bill, S. 2069, and a letter from the Office of the Secretary of Transportation commenting favorably on S. 2069.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 20, 1967.

HON. HUBERT H. HUMPHREY,
President, U.S. Senate.

DEAR MR. PRESIDENT: There is enclosed a proposed bill to modernize the U.S. Grain Standards Act, as amended (7 U.S.C. 71-87).

When enacted in 1916, the act eliminated the confusion resulting from the use of many different sets of grain standards applied by many different grain inspection organizations without national coordination and supervision. The act, in general, provided for the establishment of official U.S. grain standards of quality and condition, required that grain sold by grade and shipped in interstate or foreign commerce be sold by an official grade fixed in such standards, prohibited description of grain shipped in such commerce as being of any grade other than one fixed for such grain in the standards, required that grain sold by grade and shipped in interstate or foreign commerce from or to a place where a licensed inspector was located be inspected and graded by a licensed inspector, provided for the licensing of grain inspectors to inspect and certify the grade of grain for shipment in interstate or foreign commerce, provided administrative sanctions for selling grain in interstate or foreign commerce under a false or misleading name or description and similar offenses, and provided criminal penalties for knowingly grading grain improperly or issuing false certificates of grade and certain other offenses. The act was amended in 1956 to provide criminal penalties for knowingly sampling grain improperly or knowingly or willfully causing or attempting to cause the issuance of false or incorrect certificates of grade by deceptive loading, handling, or sampling of grain, or by any other means.

The proposed bill would, in general, continue the present U.S. standards for grain, improve the national grain inspection system by authorizing additional inspection services under the act, eliminate certain requirements which appear to be a burden on interstate commerce and which are apparently no longer needed by the commercial grain trade, strengthen the requirements for export grain, make certain activities self-funding, provide for entering into cooperative agreements and contracts with official inspection agencies and others, and strengthen the prohibitions to further protect the integrity of the national grain inspection system.

The bill would authorize the establishment of national standards similar to those established under the present act, and would authorize the utilization of additional criteria in the standards for measuring characteristics of grain. The standards now established would be continued in effect under the amended act unless modified by the Secretary.

Since the act was passed in 1916, grain merchandising practices have changed greatly. Domestic traders are more knowledgeable and specification buying is more common. As a result, reference to official grades and official inspection is not desired in many of today's commercial transactions in domestic commerce. There is, therefore, no logical justification for continuing the requirement that grain sold by grade in domestic commerce be sold only by an official grade and be officially inspected. The needs of the trade, rather than Federal law, should determine when official grain grades and inspection are used for such commerce. This is now true for rice, beans, eggs, dairy products, fruits, vegetables, and most other agricultural commodities.

Since the act was passed, grain transportation methods have also changed greatly. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade even though official inspection of much of such grain is technically required by the act. To provide official inspection for trucklot grain would require stationing official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandising the grain and would apparently serve no useful purpose to the trade. Furthermore, it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under special point-to-point rates. It is also discriminatory to require the official inspection of grain shipped from or to a place where a licensed inspector is located and not require the official inspection of grain shipped from or to other points. Therefore, the inspection of grain in domestic commerce should be entirely on a permissive or voluntary basis in accordance with the needs of the trade.

Accordingly, the proposed bill would not require the use of official grades or official inspection for grain in domestic commerce, although the bill would authorize the inspection of such grain, as well as other grain, upon request of interested persons.

Since 1916, the exportation of U.S. grain has shown a substantial increase. Much of our grain production is now shipped to foreign markets. Because of the importance of grain exports to the economy of the United States, because of the complexities of international trading, and because many foreign buyers rely solely on the U.S. grain standards for expressing their quality needs, export grain that is sold, or offered or consigned for sale, by grade, should be required to be officially inspected at the time the grain is loaded in the export carrier. Accordingly, the proposed bill would require that such export grain be officially inspected at the time of loading and that the inspection certificates be forwarded promptly to the buyers in order to facilitate international trade. It would also require the use of official grade designations in describing the grade of grain in connection with its sale for shipment from the United States. These requirements are not intended to impose an unreasonable restriction on international trade.

The proposed bill would restrict the licensing of personnel to perform official sampling or other inspection functions to individuals employed or operating independently under a cooperative agreement between the Secretary and State or other inspection agencies or persons, or operating under a contract with this Department for the performance of functions such as sampling. To avoid undesirable competition between inspection agencies, not more than one cooperative agreement would be effective at any one time in a city, town, or other area covered by any cooperative agreement. In areas where grain inspection was needed and not otherwise available from State or other inspection agencies or persons under cooperative agreements, the service would, when practical, be performed by Federal employees and contract

licensees. Licenses now in effect or issued under the amended provisions of the act would terminate every 3 years at times fixed by regulation of the Secretary.

Provision is made in the bill for refusal of renewal, and for suspension of revocation, of licenses for specified causes after the licensee is afforded opportunity to present his views. Provision is also made for refusal to provide official inspection service under certain circumstances, including opportunity for a formal hearing under the administrative procedure provisions in 5 U.S.C. 556 and 557 in the case of inspection service required under the act, and opportunity to present views in other cases. The provisions for presentation of views contemplate informal procedures, not subject to 5 U.S.C. 556 and 557, which could vary, depending upon the type of action under consideration and the reason therefor. For example, in a proceeding to refuse the renewal of an inspector's license on grounds of incompetency, based on the failure of the inspector to pass an examination under subsection 9(c) of the bill, the procedure would consist of notice of such failure and of the proposed action and an opportunity for the inspector to state his views briefly in writing. More extensive procedures, including oral hearing, would be provided when deemed necessary in other types of cases, such as proceedings for denial of permissive or voluntary inspection service.

The bill also would close several loopholes in the regulatory features of the present act to further protect the integrity of the grain inspection systems; e.g., it contains various new prohibitions, including a prohibition against knowingly making false representations that grain has been inspected under the act. The use of an official grade designation such as U.S. No. 1 Durum wheat, would not in itself be deemed to constitute a representation that grain has been officially inspected, within this prohibition. However, the knowing use of an official grade designation on a container of grain would be prohibited by another provision of the bill unless the grain in the container was officially inspected as required by the bill.

The bill would provide for issuance of rules and regulations to effectuate the purposes of the act. It is contemplated that inspection procedures and inspection equipment would be prescribed by the Secretary to achieve uniform inspection results.

The bill would have no adverse effect on operations under the Commodity Exchange Act or the U.S. Warehouse Act, or on the uniform grain storage agreements under the Commodity Credit Corporation price-support programs. Official inspection under the official standards could be required under the uniform grain storage agreements or in any commercial contract in exactly the same manner as at present. Industry and Government costs would be reduced without impairing the usefulness of the national standards or the grain inspection system.

Under the present statute the inspection of grain by licensed grain inspectors has been financed by fees charged by such licensees to the user of the service. Annual appropriations have been provided to cover the cost of the Federal activities under the act with the exception of the cost of overtime, night, and holiday work which was made self-funding in 1958 by an amendment of section 6 of the act. Also the cost of appeal inspections has been borne by the users of the service.

In accordance with the policy of the administration of charging users for special benefit services, the proposed bill authorizes the collection of reasonable fees to cover the estimated total costs of official

inspection services if the inspection is performed by employees of the Department or by contract licensees. It is contemplated that the fees would be reasonable and equal as nearly as practicable to the costs of furnishing the services, including the cost of overtime, night, and holiday work (after taking into consideration any proceeds from the sale of samples). No provision is made for the Department to share in the fees collected by licensed inspectors for inspections performed by them under cooperative agreements.

Based on present workload estimates, fees collected from appeal inspection services performed by employees of the Department and money obtained from the sale of surplus Federal samples of grain will amount to about \$782,000 in fiscal year 1967. Of this amount, \$682,000 is to be deposited into miscellaneous receipts in the Treasury and \$100,000 deposited as a reimbursement to the appropriation. Under the proposed bill, if the amount of grain inspected should continue at its present level, this total revenue of approximately \$782,000 would be deposited in a fund which would be made directly available for financing these "special benefit" services. All fees collected for other inspections performed by Department employees or contract licensees under the bill would also be deposited in such fund. A net cost to the Government of about \$2.2 million would be financed from appropriated funds. Reductions in Federal employment would occur to the extent that more effective inspection arrangements can be adopted or that the volume of inspected grain declines under a voluntary domestic program.

A summary of the proposed changes is also enclosed for your convenience.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 14, 1968.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your committee has under consideration S. 2069, a bill to provide for U.S. standards and a national inspection system for grain and for other purposes; and S. 272, a bill to amend the U.S. Grain Standards Act, as amended, to permit the inspection of certain grain thereunder upon the basis of submitted samples.

We are pleased to submit the views and recommendations of this Department.

The present U.S. Grain Standards Act provides for the establishment of official U.S. grain standards of quality and condition; requires that grain sold by grade and shipped in interstate or foreign commerce be sold by an official grade fixed on such standards; and, provides for inspection, grading, and certification by licensed inspectors.

The proposed bill (S. 2069) would continue the present U.S. standards for grain, authorize additional inspection services, eliminate certain requirements which are a burden on interstate commerce, strengthen requirements for export grain, make certain activities self-funding and, in general, enable the Secretary of Agriculture to

keep his programs and services attuned to the changes that have taken place since 1916 in the transporting, marketing, and merchandising of grain and grain products.

We address our comments to those provisions of S. 2069 which place the inspection of grain in domestic commerce on a permissive or voluntary basis thereby eliminating a severe burden on interstate commerce. We defer to the expertise of others to comment on other substantive changes incorporated in this bill.

The Department believes the bill would have the desirable effect of putting more freight cars into the rail transportation pipeline by eliminating those statutes which now clog up the pipeline with unnecessary regulatory inspections. Under the present provisions of the act, grain moving in interstate commerce is required to be sampled and certified by official grain inspectors. Since official sampling of grain is not available at the small origin elevators and often not practical at intermediate and terminal elevators, official grain inspection is accomplished in-transit at rail points. The en route stopping of cars causes further delays and congestion due to the rehandling, rebilling, and holding of cars. The stopping and holding of cars at rail points results in higher operating expenses, lost car utilization, and of major importance, decreased capacity of the existing railcar fleet to handle available grain tonnages. Elimination of in-transit inspection of grain would add an equivalent capacity to the car fleet, something equal to tens of thousands of freight cars. The benefits to shippers and carriers are obvious—cost of conducting transportation is dramatically reduced and customer service improved.

Lastly, the proposed legislation would eliminate discrimination that now exists between different transportation modes. Although official inspection is technically required, a large percentage of grain now being shipped in interstate commerce is moved by the trucking industry without inspection. However, grain moving by water and rail and under conventional rates is required to be officially inspected by licensed inspectors at designated points. It is therefore discriminating to require inspection of rail or water grain movements and not to require such similar inspection of truck movements.

The second bill before your committee, S. 272, would permit the mechanical sampling of grain by probe or other mechanical device to establish grain standards when so desired and submitted for inspection by shipping interests. The change would mean substantial benefits, such as less costly procedures, fewer car delays, more effective operations, and increased equipment capability to meet harvest demands.

S. 272 must be considered in the context of S. 2069. Enactment of S. 2069 would provide the necessary latitude to permit the mechanical sampling by probe sought under S. 272. However, lacking approval of the broad changes of S. 2069, the Department views S. 272 as a step in the right direction in making more freight cars available during grain movements.

Of two bills the Department favors passage of S. 2069 as a means to eliminate discrimination in grain inspection rules affecting the various modes, and to reduce the burden on interstate commerce caused by unnecessary, mandatory inspection regulations.

The Bureau of the Budget advises from the standpoint of the administration's program that there is no objection to the submission of this report for the consideration of the committee.

Sincerely,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

UNITED STATES GRAIN STANDARDS ACT

SHORT TITLE

Section 1. **【That this】** *This Act* **【shall be known by the short title of】** *may be cited as the* “United States **【grain standards】** *Grain Standards Act.*” **【The word “person,” wherever used in this Act, shall be construed to import the plural or singular, as the case demands, and shall include individuals, associations, partnerships, and corporations; the words “in interstate or foreign commerce,” wherever used in this Act, mean, “from any State, Territory, or District to or through any other State, Territory, or District, or to or through any foreign country, or within any Territory or District.” When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.】**

Note: The immediately preceding sentence is identical to proposed section 15. The definitions of “person” and “interstate or foreign commerce” are hereafter compared with proposed sections 3(c) and 3(f).

DECLARATION OF POLICY

SEC. 2. Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, and to provide for an official inspection system for grain; with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated.

DEFINITIONS

SEC. 3. When used in this Act, except where the context requires otherwise—

(a) *the term “Secretary” means the Secretary of Agriculture of the United States or his delegates;*

(b) *The term “Department of Agriculture” means the United States Department of Agriculture;*

(c) *the term “person” means any individual, partnership, corporation, association, or other business entity;*

Note: The preceding definition of “person” does not appear to differ in substance from that contained in the first section of existing law.

(d) the term "United States" means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

(e) the term "State" means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term "interstate or foreign commerce" means commerce from any State to or through any other State, or to or through any foreign country;

Note: The foregoing definition differs from that in the first section of existing law in that it does not cover commerce solely within a Territory or District.

(g) the term "grain" means corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of this Act.

(h) the term "export grain" means grain for shipment from the United States to any place outside thereof;

(i) the term "official inspection" means the determination and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain, under standards provided for in this Act; or, upon request of the interested person applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Secretary under this Act (the term "officially inspected" shall be construed accordingly);

(j) the term "official inspection personnel" means employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this Act; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports;

(k) the term "official inspection mark" means any symbol prescribed by regulations of the Secretary to show the official determination of an official inspection;

(l) the term "official grade designation" means a numerical or sample grade designation, specified in the standards provided for in this Act;

(m) the term "official inspection agency" means the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this Act;

(n) the terms "official certificate" and "official form" mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this Act;

(o) the term "official sample" means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term "official sampling" shall be construed accordingly);

(p) the term "submitted sample" means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term "lot" means a specific quantity of grain identified as such;

(r) the term "interested person" means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb "ship" with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

(t) the terms "false", "incorrect", and "misleading" mean, respectively, false, incorrect, and misleading in any particular;

(u) the term "deceptive loading, handling, or sampling" means any manner of loading, handling, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this Act.

STANDARDS

SEC. [2.] 4. (a) [That the] *The Secretary [of Agriculture]* is [hereby] authorized to investigate the handling, grading, and transportation of grain and to fix and establish [as soon as may be after the enactment hereof] standards of *kind, class, quality and condition for corn [maize], wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary [of Agriculture shall have power to alter or modify]* *is authorized to amend or revoke* such standards whenever the necessities of the trade may require.

(b) [In promulgating the standards, or any alteration or modification of such standards, the Secretary shall specify the date or dates when the same shall become effective, and shall give public notice, not less than ninety days in advance of such date or dates, by such means as he deems proper.] *Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.*

[SEC. 3. That the standards so fixed and established shall be known as the official grain standards of the United States.]

Note: Existing section 4 requires inspection and use of official standards for sales by grade in interstate or foreign commerce. Part of existing section 4 would be contained in proposed section 5, which requires inspection of export grain sold by grade; and part would be contained in proposed section 6, which requires the use of official standards for sales by grade in interstate or foreign commerce. Existing section 4 is, therefore, hereinafter compared first with proposed section 5, and then with proposed section 6.

Comparison of Existing Section 4 with Proposed Section 5

OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN EXPORT GRAIN

SEC. [4.] 5. [That whenever] *Whenever* standards [shall have been fixed and established] *are effective* under section 4 of this Act for any grain no person [thereafter] shall ship [or deliver for ship-

ment in interstate or foreign commerce] *from the United States to any place outside thereof any lot of such grain [which] that is sold, offered for sale, or consigned for sale by grade unless [the grain] such lot [shall have been inspected and graded by an inspector licensed under this Act and the grade by which it is sold, offered for sale, or consigned for sale, be one of the grades fixed therefor in the official grain standards of the United States] is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: Provided, however, That the Secretary may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments[: Provided, That any person may sell, offer for sale, or consign for sale, ship, or deliver for shipment in interstate or foreign commerce any such grain by sample or by type, or under any name, description, or designation which is not false or misleading, and which name, description, or designation does not include in whole or in part the terms of any official grain standard of the United States: Provided further, That any such grain sold, offered for sale, or consigned for sale by grade may be shipped or delivered for shipment in interstate or foreign commerce without inspection at point of shipment by an inspector licensed under this Act, to or through any place at which an inspector licensed under this Act is located, subject to be inspected by a licensed inspector at the place to which shipped or at some convenient point through which shipped for inspection, which inspection shall be under such rules and regulations as the Secretary of Agriculture shall prescribe, and subject further to the right of appeal from such inspection, as provided in section six of this Act: And provided further, That any such grain sold, offered for sale, or consigned for sale by any of the grades fixed therefor in the official grain standards may, upon compliance with the rules and regulations prescribed by the Secretary of Agriculture, be shipped in interstate or foreign commerce without inspection from a place at which there is no inspector licensed under this Act to a place at which there is no such inspector, subject to the right of either party to the transaction to refer any dispute as to the grade of the grain to the Secretary of Agriculture, who may determine the true grade thereof. No person shall in any certificate or in any contract or agreement of sale or agreement to sell by grade, either oral or written, involving, or in any invoice or bill of lading or other shipping document relating to, the shipment or delivery for shipment, in interstate or foreign commerce, of any grain for which standards shall have been fixed and established under this Act, describe, or in any way refer to, any of such grain as being of any grade other than a grade fixed therefor in the official grain standards of the United States].*

Comparison of Existing Section 4 with Proposed Section 6

REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

SEC. [4.] 6.(a) [That whenever] *Whenever* standards [shall have been fixed and established] *are effective* under section 4 of this Act for any grain no person [thereafter] shall [ship or deliver for shipment in interstate or foreign commerce any such grain which is sold, offered for sale, or consigned for sale by grade unless the grain shall have been inspected and graded by an inspector licensed under this Act and the grade by which it is sold, offered for sale, or consigned for sale be one of the grades fixed therefor in the official grain standards of the United States] *in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: [Provided, That any person may sell, offer for sale, or consign for sale, ship, or deliver for shipment in interstate or foreign commerce any such grain by sample or by type, or under any name, description, or designation which is not false or misleading, and which name, description, or designation does not include in whole or in part the terms of any official grain standard of the United States:] Provided, That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or, with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other factor information shall not be deemed to be a description of grain as being of any grade [Provided further, That any such grain sold, offered for sale, or consigned for sale by grade may be shipped or delivered for shipment in interstate or foreign commerce without inspection at point of shipment by an inspector licensed under this Act, to or through any place at which an inspector licensed under this Act is located, subject to be inspected by a licensed inspector at the place to which shipped or at some convenient point through which shipped for inspection, which inspection shall be under such rules and regulations as the Secretary of Agriculture shall prescribe, and subject further to the right of appeal from such inspection, as provided in section six of this Act: And provided further, That any such grain sold, offered for sale, or consigned for sale by any of the grades fixed therefor in the official grain standards may, upon compliance with the rules and regulations prescribed by the Secretary of Agriculture, be shipped in interstate or foreign commerce without inspection from a place at which there is no inspector licensed under this Act to a place at which there is no such inspector, subject to the right of either party to the transaction to refer any dispute as to the grade of the grain to the Secretary of Agriculture, who may determine the true grade thereof. No person shall in any certificate or in any contract or agreement of sale or agreement to sell by grade, either oral or written, involving, or in any invoice or bill of lading or other shipping document relating to, the shipment or delivery for shipment, in interstate or foreign commerce, of any grain for which standards shall have been fixed and established under this Act describe, or in any way refer to, any of such grain as*

being of any grade other than a grade fixed therefor in the official grain standards of the United States】.

(b) *No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.*

Note: Parts of section 5 are contained in proposed sections 5 and 6 (supra)

【SEC. 5. That no person, except as permitted in section four, shall represent that any grain shipped or delivered for shipment in interstate or foreign commerce is of a grade fixed in the official grain standards other than as shown by a certificate therefor issued in compliance with this Act; and the Secretary of Agriculture is authorized to cause examinations to be made of any grain for which standards shall have been fixed and established under this Act, and which has been certified to conform to any grade fixed therefor in such official grain standards, or which has been shipped or delivered for shipment in interstate or foreign commerce. Whenever, after opportunity for hearing is given to the owner or shipper of the grain involved, and to the inspector thereof if the same has been inspected, it is determined by the Secretary that any quantity of grain has been incorrectly certified to conform to a specified grade, or has been sold, offered for sale, or consigned for sale under any name, description, or designation which is false or misleading, he may publish his findings.】

Official Inspection Authority and Funding

SEC. 【6】 7. (a) *The Secretary is authorized to cause official inspection under the standards provided for in section 4 of this Act to be made of all grain required to be officially inspected as provided in section 5 of this Act, in accordance with such regulations as he may prescribe.*

(b) *The Secretary is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States or with respect to United States grain in Canadian ports under standards provided for in section 4 of this Act, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, or condition of grain, or quantity of sacks of grain, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 2 of this Act.*

(c) 【Whenever standards shall have been fixed and established under this Act for any grain and any quantity of such grain sold, offered for sale, or consigned for sale, or which has been shipped, or delivered for shipment in interstate or foreign commerce shall have been inspected and a dispute arises as to whether the grade as determined by such inspection of any such grain in fact conforms to the standard of the specified grade, any interested party may, either with or without reinspection, appeal the question to the Secretary of Agriculture, and the Secretary of Agriculture is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine the true grade: *Provided*, That any appeal from such inspection and grading to the Secretary of Agriculture shall

be taken before the grain leaves the place where the inspection appealed from was made and before the identity of the grain has been lost, under such rules and regulations as the Secretary of Agriculture shall prescribe.】 *The regulations prescribed by the Secretary under this Act shall include provisions for reinspections and appeal inspections; cancellation of certificates superseded by reinspections and appeal inspections. The Secretary may provide by regulation that samples obtained by or for employees of the Department of Agriculture for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).*

(d) *Certificates issued and not canceled under this Act shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.*

(e) 【Whenever an appeal shall be taken or a dispute referred to the Secretary of Agriculture under this Act, he shall charge and assess, and cause to be collected, a reasonable fee, in amount to be fixed by him. The fee, in case of an appeal, shall be refunded if the appeal is sustained. All such fees, not so refunded, shall be deposited and covered into the Treasury as miscellaneous receipts. The Secretary of Agriculture is authorized to pay employees assigned to perform appeal inspections for all overtime, night, or holiday work at such rates as he may determine and to accept from persons, Government agencies and departments, and Government corporations for whom such work is performed reimbursement for any sums paid for such work. The findings of the Secretary of Agriculture as to grade, signed by him or by such officer or officers, agent or agents, of the Department of Agriculture as he may designate, made after the parties in interest have had opportunity to be heard, shall be accepted in the courts of the United States as prima facie evidence of the true grade of the grain determined by him at the time and place specified in the findings.】 **(Compare foregoing sentence with subsection (d) (supra))** *The Secretary may, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated total cost of official inspection except when the inspection is performed by employees of an official inspection agency. The fees authorized by this paragraph shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Department of Agriculture incident to the performance of appeal and Canadian port inspection services for which the fees are collected, including supervisory and administrative costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Department of Agriculture incident to providing official inspection services.*

(f) *Not more than one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area, but this subsection shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on the date of enactment of this subsection.*

LICENSES AND AUTHORIZATIONS

SEC. 【7.】 8.(a) The Secretary 【of Agriculture may】 is authorized to issue a license to any 【person,】 *individual* upon presentation to him of satisfactory evidence that such 【person】 *individual* is competent, 【to

inspect and grade grain and to certificate the grade thereof for shipment or delivery for shipment in interstate or foreign commerce, under this Act and the rules and regulations prescribed thereunder. No person authorized or employed by any State, county, city, town, board of trade, chamber of commerce, corporation, society, partnership, or association to inspect or grade grain shall certify, or otherwise state or indicate in writing, that any grain for shipment or delivery for shipment in interstate or foreign commerce, which has been inspected or graded by him, or by any person acting under his authority, is of one of the grades of the official grain standards of the United States, unless he holds an unsuspended and unrevoked license issued by the Secretary of Agriculture: *Provided*, That in any State which has, or which may hereafter have a State grain inspection department established by the laws of such State, the Secretary of Agriculture shall issue licenses to the persons duly authorized and employed to inspect and grade grain under the laws of such State] *and is employed by an official inspection agency to perform all or specified functions involved in official inspection; to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports; and to license any other competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture. No person shall perform any official inspection functions for purposes of this Act unless he holds an unsuspended and unrevoked license or authorization from the Secretary under this Act.*

(b) *All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: Provided, That any license shall be suspended automatically when the licensee ceases to be employed by an official inspection agency or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: Provided further, That subject to paragraph (c) of this section, such license shall be reinstated if the licensee is employed by an official inspection agency or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.*

(c) *The Secretary may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Department of Agriculture, to perform any official inspection function under this Act.*

(d) *Persons employed by an official inspection agency and persons performing official inspection functions under contracts with the Department of Agriculture shall not, unless otherwise employed by the Federal Government, be deemed to be employees of the Federal Government of the United States.*

REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION, OF LICENSES

SEC. 9. The Secretary [of Agriculture] *may refuse to renew, or may suspend or revoke any license issued [by him] under this Act whenever, after the licensee has been afforded an opportunity for a hearing [has been given to the licensee], the Secretary shall determine that such licensee is incompetent [or has knowingly or carelessly graded grain improperly or], or has inspected grain for purposes of this Act by any [other] standard or criteria other than [is authorized under] as provided for in this Act, or has issued, or caused the issuance of any false or incorrect official certificate [of grade], or other official*

form, or has knowingly or carelessly inspected grain improperly under this Act or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the [rules and] regulations [made hereunder] prescribed or instructions issued to him by the Secretary under this Act. [Pending investigation the] The Secretary [of Agriculture, whenever he deems necessary,] may, without first affording the licensee an opportunity for a hearing, suspend [a] any license temporarily [without hearing:] pending final determination whenever the Secretary deems such action to be in the best interests of the official inspection system under this Act.

“REFUSAL OF OFFICIAL INSPECTION

SEC. 10. (a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection otherwise available under this Act with respect to any grain offered for inspection, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof) has committed any repeated or flagrant violation of section 13 of this Act, or that official inspection has been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing official inspection with respect to such grain would be inimical to the integrity of the official inspection service.

(b) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

(c) Before official inspection is refused to any person under paragraph (a), such person shall be afforded opportunity for a hearing.

PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

SEC. 11. [Provided further, That no] No person licensed or authorized by the Secretary [of Agriculture to inspect or grade grain] to perform any official inspection function under this Act, or employed by [him] the Secretary in otherwise carrying out any of the provisions of this Act shall, during the term of such license, authorization, or employment, (a) be financially interested, [financially] (directly or otherwise) [, directly or indirectly,] in any business entity owning or operating any grain elevator or warehouse[,] or engaged in the merchandising of grain, [nor shall he] or (b) be in the employment of, or accept gratuities from, any [person or corporation owning or operating any grain elevator or warehouse] such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: Provided, however, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regula-

tion provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this Act.

RECORDS

SEC. 12. (a) [The Secretary of Agriculture shall require every inspector licensed under this Act to keep complete and correct records of all grain graded and inspected by him, and to make reports to the Secretary of Agriculture, in such forms and at such times as he may require, showing the place of inspection, the date of inspection, the name of the elevator or warehouse, if any, to which the grain was delivered or from which it was shipped, the kind of grain, the quantity of each kind, the grade thereof, and such other information as the Secretary of Agriculture may deem necessary. The Secretary of Agriculture, on each first Tuesday in January and each first Tuesday in July of each year shall make publication of a summary of such facts as are ascertained, showing in as great detail as possible all the facts, including a summary as to the amount and grade of grain delivered to the elevator or warehouse and the amount and grade of grain delivered from such elevator or warehouse, and the estimated amount received on sample or type by such elevator or warehouse, and the estimated amount delivered therefrom on sample or type.] Every official inspection agency and every person licensed to perform any official inspection function under this Act shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this Act.

(b) Every official inspection agency required to maintain records under this section shall keep such records for a period of two years after the inspection or transaction, which is the subject of the record, occurred: Provided, however, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to said two-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

(c) Every official inspection agency required to maintain records under this section shall permit any authorized representative of the Secretary to have access to, and to copy, such records at all reasonable times.

[SEC. 8. That the Secretary of Agriculture shall, from time to time, make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.] (Compare with first section of proposed section 16.)

PROHIBITED ACTS

SEC. [9.] 13. [Any person who shall knowingly violate any of the provisions of sections 4 or 7 of this Act, (Compare foregoing with proposed section 13(a)(11)) or any inspector licensed under this Act, or any person sampling grain for inspection under this Act, who shall knowingly inspect, grade, or sample improperly any grain which has been shipped or delivered for shipment in interstate or foreign commerce, or shall knowingly give any false or incorrect certificate of

grade, or shall accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty, (**Compare foregoing with proposed section 13(b)**) and any person who shall improperly influence or attempt to improperly influence any such inspector or sampler in the performance of his duty, (**Compare foregoing with proposed section 13(a)(7)**) or shall knowingly or willfully cause, or attempt to cause, the issuance of a false or incorrect certificate of grade under this Act by deceptive loading, handling, or sampling of grain, or by submitting grain for inspection knowing that it has been so loaded, handled, or sampled, or by any other means, (**Compare with proposed section 13(a)(3)**) shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or be imprisoned not more than one year, or both.】

【SEC. 10. That every person who forcibly assaults, resists, impedes, or interferes with any officer or employee of the United States Department of Agriculture in the execution of any duties authorized to be performed by this Act or the rules and regulations made hereunder shall, upon conviction thereof, be fined not more than \$1,000, or be imprisoned not more than one year, or both.】 (**Compare the foregoing with proposed section 13(a)(8)**).

(a) *No person shall—*

(1) *knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official inspection mark;*

(2) *knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official inspection mark, or knowingly possess, without promptly notifying the Secretary or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official inspection certificate or other official form, or any device for making any official inspection mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official inspection mark without promptly giving such notice;*

(3) *knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, or sampling of grain, or submitting grain for official inspection knowing that it has been deceptively loaded, handled, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling;*

(4) *alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;*

(5) *knowingly use any official grade designation or official inspection mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container and the grain was found to qualify for such designation or mark;*

(6) *knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this Act;*

(7) *improperly influence, or attempt to improperly influence, any official inspection personnel or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;*

(8) *forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;*

(9) *falsely represent that he is licensed or authorized to perform an official inspection function under this Act;*

(10) *use any false or misleading means in connection with the making or filing of an application for official inspection; or*

(11) *violate any provision of section 5, 6, 8, 11, or 12 of this Act.*

(b) *No person licensed or authorized to perform any function under this Act shall—*

(1) *commit any offense prohibited by subsection (a);*

(2) *knowingly perform improperly any official sampling or other official inspection function under this Act;*

(3) *knowingly execute or issue any false or incorrect official certificate or other official form; or*

(4) *accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.*

(c) *An offense shall be deemed to have been committed knowingly under this Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.*

PENALTIES

SEC. 14. (a) *Any person who commits any offense prohibited by section 13 shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than six months, a fine of not more than \$3,000 or both such imprisonment and fine; but, if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine.*

(b) *Nothing in this Act shall be construed as requiring the Secretary to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning.*

RESPONSIBILITY FOR ACTS OF OTHERS

SEC. 15. *When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.*

Note: Compare section 15 with the third sentence of the first section of existing law.

GENERAL AUTHORITIES

SEC. 16. *The Secretary is authorized to conduct such investigations, hold such hearings, require such reports from any official inspection agency or*

any person, and prescribe such rules and regulations as he deems necessary to effectuate the purposes or provisions of this Act. (Compare foregoing with existing section 8.) Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 or 10 of this Act for refusal to renew, or for suspension or revocation of, a license, or for refusal of official inspection service not required by section 5 of this Act, shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5, United States Code.

ENFORCEMENT PROVISIONS

SEC. 17. (a) For the purposes of this Act, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, and may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena the Secretary may invoke the aid of any court designated in paragraph (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

(f) No person shall be excused from attending and testifying or from producing documentary evidence before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which

he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(g) Any officer or employee of the Department of Agriculture who shall make public any information obtained under this Act by the Department of Agriculture, without its authority, unless directed by the court, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

(h) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this Act.

RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

SEC. 18. (a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon, the performance of any official inspection function under this Act by official inspection personnel. Otherwise nothing in this Act shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this Act.

【SEC. 11.】 (b) 【That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.】 If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

APPROPRIATIONS

SEC. 【12.】 19. 【That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$250,000, which shall be available until expended, for the expenses of carrying into effect the provisions of this Act, including such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere.】 There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sale of samples as provided for in section 7 of this Act.

Calendar No. 1351

90TH CONGRESS
2D SESSION

H. R. 15794

[Report No. 1372]

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1968

Read twice and referred to the Committee on Agriculture and Forestry

JULY 9, 1968

Reported by Mr. JORDAN of North Carolina, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To provide for United States standards and a national inspection system for grain, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the United States Grain Standards Act, consisting
4 of part B of "An Act Making appropriations for the De-
5 partment of Agriculture for the fiscal year ending June
6 thirtieth, nineteen hundred and seventeen, and for other
7 purposes", approved August 11, 1916 (39 Stat. 446, at
8 482), as amended (7 U.S.C. 71-87), is hereby amended
9 to read as follows:

1 “SHORT TITLE

2 “SECTION 1. This Act may be cited as the ‘United
3 States Grain Standards Act’.

4 “DECLARATION OF POLICY

5 “SEC. 2. Grain is an essential source of the world’s total
6 supply of human food and animal feed and is merchandised
7 in interstate and foreign commerce. It is declared to be the
8 policy of the Congress, for the promotion and protection of
9 such commerce in the interests of producers, merchandisers,
10 warehousemen, processors, and consumers of grain, and the
11 general welfare of the people of the United States, to provide
12 for the establishment of official United States standards for
13 grain, to promote the uniform application thereof by official
14 inspection personnel, and to provide for an official inspection
15 system for grain; with the objectives that grain may be
16 marketed in an orderly manner and that trading in grain
17 may be facilitated.

18 “DEFINITIONS

19 “SEC. 3. When used in this Act, except where the con-
20 text requires otherwise—

21 “(a) the term ‘Secretary’ means the Secretary of
22 Agriculture of the United States or his delegates;

23 “(b) The term ‘Department of Agriculture’ means
24 the United States Department of Agriculture;

1 “(c) the term ‘person’ means any individual, part-
2 nership, corporation, association, or other business entity;

3 “(d) the term ‘United States’ means the States
4 (including Puerto Rico) and the territories and posses-
5 sions of the United States (including the District of
6 Columbia) ;

7 “(e) the term ‘State’ means ~~any~~ *any* one of the
8 States (including Puerto Rico) or territories or posses-
9 sions of the United States (including the District of
10 Columbia) ;

11 “(f) the term ‘interstate or foreign commerce’
12 means commerce from any State to or through any
13 other State, or to or through any foreign country;

14 “(g) the term ‘grain’ means corn, wheat, rye, oats,
15 barley, flaxseed, grain sorghum, soybeans, mixed grain,
16 and any other food grains, feed grains, and oilseeds for
17 which standards are established under section 4 of this
18 Act.

19 “(h) the term ‘export grain’ means grain for ship-
20 ment from the United States to any place outside thereof;

21 “(i) the term ‘official inspection’ means the deter-
22 mination and the certification, by official inspection per-
23 sonnel, of the kind, class, quality, ~~condition, or quantity~~
24 of sacks of grain, under standards provided for in this

1 ~~Act or, upon request of the interested person applying~~
 2 ~~for inspection, or condition of grain, under standards~~
 3 ~~provided for in this Act; or, upon request of the in-~~
 4 ~~terested person applying for inspection, the quantity~~
 5 ~~of sacks of grain, or other facts relating to grain under~~
 6 other criteria approved by the Secretary under this Act
 7 (the term ‘officially inspected’ shall be construed
 8 accordingly) ;

9 “(j) the term ‘official inspection personnel’ means
 10 employees of State or other governmental agencies or
 11 commercial agencies or other persons who are licensed
 12 to perform all or specified functions involved in official
 13 inspection under this Act; employees of the Department
 14 of Agriculture who are authorized to supervise official
 15 inspection and to conduct appeal inspection or initial
 16 inspection of United States grain in Canadian ports;

17 “(k) the term ‘official inspection mark’ means any
 18 symbol prescribed by regulations of the Secretary to
 19 show the official determination of the ~~kind, class, qual-~~
 20 ~~ity, condition, or quantity of, or other facts relating to~~
 21 ~~grain, under standards provided for in this Act or, upon~~
 22 ~~request of the interested person applying for inspection,~~
 23 ~~other criteria approved by the Secretary under this Act~~
 24 an official inspection ;

25 “(l) the term ‘official grade designation’ means

1 a numerical or sample grade designation, specified in
2 the standards provided for in this Act;

3 “(m) the term ‘official inspection agency’ means
4 the agency or person located at an inspection point
5 designated by the Secretary for the conduct of official
6 inspection under this Act;

7 “(n) the ~~term~~ *terms* ‘official certificate’ and ‘official
8 form’ mean, respectively, a certificate or other form pre-
9 scribed by regulations of the Secretary under this Act;

10 “(o) the term ‘official sample’ means a sample ob-
11 tained from a lot of grain by, and submitted for official
12 inspection by, official inspection personnel (the term
13 ‘official sampling’ shall be construed accordingly) ;

14 “(p) the term ‘submitted sample’ means a sample
15 submitted by or for an interested person for official in-
16 spection, other than an official sample;

17 “(q) the term ‘lot’ means a specific quantity of
18 grain identified as such;

19 “(r) the term ‘interested person’ means any person
20 having a contract or other financial interest in grain as
21 the owner, seller, purchaser, warehouseman, or carrier,
22 or otherwise;

23 “(s) the verb ‘ship’ with respect to grain means
24 transfer physical possession of the grain to another per-
25 son for the purpose of transportation by any means of

1 conveyance, or transport one's own grain by any means
2 of conveyance;

3 “(t) the terms ‘false’, ‘incorrect’, and ‘misleading’
4 mean, respectively, false, incorrect, and misleading in any
5 particular;

6 “(u) the term ‘deceptive loading, handling, or
7 sampling’ means any manner of loading, handling, or
8 sampling that deceives or tends to deceive official inspec-
9 tion personnel, as specified by regulations of the Secre-
10 tary under this Act.

11 “STANDARDS

12 “SEC. 4. (a) The Secretary is authorized to investigate
13 the handling, grading, and transportation of grain and to fix
14 and establish standards of kind, class, quality, and condition
15 for corn, wheat, rye, oats, barley, flaxseed, grain sorghum,
16 soybeans, mixed grain, and such other grains as in his judg-
17 ment the usages of the trade may warrant and permit, and
18 the Secretary is authorized to amend or revoke such stand-
19 ards whenever the necessities of the trade may require.

20 “(b) Before establishing, amending, or revoking any
21 standards under this Act, the Secretary shall publish notice
22 of the proposal and give interested persons opportunity to
23 submit data, views, and arguments thereon and, upon re-
24 quest, an opportunity to present data, views, and argu-
25 ments orally in an informal manner. No standards established

1 or amendments or revocations of standards under this Act
2 shall become effective less than one calendar year after pro-
3 mulgation thereof, unless in the judgment of the Secretary,
4 the public health, interest, or safety require that they become
5 effective sooner.

6 "OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN
7 EXPORT GRAIN

8 "SEC. 5. Whenever standards are effective under section
9 4 of this Act for any grain, no person shall ship from
10 the United States to any place outside thereof any lot of
11 such grain that is sold, offered for sale, or consigned for sale
12 by grade, unless such lot is officially inspected in accord-
13 ance with such standards on the basis of official samples taken
14 after final elevation as the grain is being loaded ~~abroad~~
15 *aboard*, or while it is in, the final carrier in which it is to be
16 transported from the United States, and unless a valid official
17 certificate showing the official grade designation of the lot of
18 grain is promptly furnished by the shipper, or his agent, to
19 the consignee with the bill of lading or other shipping
20 documents covering the shipment: *Provided, however,* That
21 the Secretary may waive any requirement of this section
22 with respect to shipments from or to any area or any other
23 class of shipments when in his judgment it is impracticable
24 to provide official inspection with respect to such shipments.

1 "REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND
2 PROHIBITION OF CERTAIN ACTS WITH RESPECT TO
3 CERTAIN GRAIN

4 "SEC. 6. (a) Whenever standards are effective under
5 section 4 of this Act for any grain no person shall in any
6 sale, offer for sale, or consignment for sale, which involves
7 the shipment of such grain in interstate or foreign commerce,
8 describe such grain as being of any grade in any advertising,
9 price quotation, other negotiation of sale, contract of sale,
10 invoice, bill of lading, other document, or description on bags
11 or other containers of the grain, other than by an official
12 grade designation, with or without additional information as
13 to specified factors: *Provided*, That, ~~with respect to inter-~~
14 ~~state commerce~~, the description of such grain by any proprie-
15 tary brand name or trademark that does not resemble an
16 official grade designation, or, *with respect to interstate com-*
17 *merce*, by the use of one or more grade factor designations
18 set forth in the official United States standards for grain, or
19 by other factor information shall not be deemed to be a
20 description of grain as being of any grade.

21 "(b) No person shall, in any sale, offer for sale, or
22 consignment for sale, of any grain which involves the ship-
23 ment of such grain from the United States to any place out-
24 side thereof, knowingly describe such grain by any official

1 grade designation, or other description, which is false or
2 misleading.

3 “OFFICIAL INSPECTION AUTHORITY AND FUNDING

4 “SEC. 7. (a) The Secretary is authorized to cause official
5 inspection under the standards provided for in section 4 of
6 this Act to be made of all grain required to be officially in-
7 spected as provided in section 5 of this Act, in accordance
8 with such regulations as he may prescribe.

9 “(b) The Secretary is further authorized, upon request
10 of any interested person, and under such regulations as he
11 may prescribe, to cause official inspection to be made with
12 respect to any grain whether by official sample, submitted
13 sample, or otherwise within the United States or with respect
14 to the United ~~State~~ *States* grain in Canadian ports under
15 standards provided for in section 4 of this Act, or, upon re-
16 quest of the interested person, under other criteria approved
17 by the Secretary for determining the kind, class, quality, ~~con-~~
18 ~~dition, or quantity of, or other facts relating to, grain or con-~~
19 *dition of grain, or quantity of sacks of grain, or other facts*
20 *relating to grain*, whenever in his judgment providing such
21 service will effectuate any of the objectives stated in section
22 2 of this Act.

23 “(c) The regulations prescribed by the Secretary under

1 this Act shall include provisions for reinspections and appeal
2 inspections; cancellation of certificates superseded by re-
3 inspections and appeal inspections. The Secretary may pro-
4 vide by regulation that samples obtained by or for employees
5 of the Department of Agriculture for purposes of official in-
6 spection shall become the property of the United States, and
7 such samples may be disposed of without regard to the pro-
8 visions of the Federal Property and Administrative Services
9 Act of 1949, as amended (40 U.S.C. 471 et seq.).

10 “(d) Certificates issued and not canceled under this
11 Act shall be received by all officers and all courts of the
12 United States as prima facie evidence of the truth of the
13 facts stated therein.

14 “(e) The Secretary may, under such regulations as
15 he may prescribe, charge and collect reasonable fees to cover
16 the estimated total cost of official inspection except when the
17 inspection is performed by employees of an official inspection
18 agency. The fees authorized by this paragraph shall, as
19 nearly as practicable and after taking into consideration any
20 proceeds from the sale of samples, cover the costs of the
21 Department of Agriculture incident to the performance of
22 appeal and Canadian port inspection services for which the
23 fees are collected, including supervisory and administrative
24 costs. Such fees, and the proceeds from the sale of samples
25 obtained for purposes of official inspection which become the

1 property of the United States, shall be deposited into the
2 United States Treasury as miscellaneous receipts a fund
3 which shall be available without fiscal year limitation for the
4 expenses of the Department of Agriculture incident to pro-
5 viding official inspection services.

6 “(f) Not more than one inspection agency for carrying
7 out the provisions of this section shall be operative at one
8 time for any one city, town, or other area, *but this subsec-*
9 *tion shall not be applicable to prevent any inspection agency*
10 *from operating in any area in which it was operative on the*
11 *date of enactment of this subsection.*

12 “LICENSES AND AUTHORIZATIONS

13 “SEC. 8. (a) The Secretary is authorized to issue a
14 license to any individual upon presentation to him of satis-
15 factory evidence that such individual is competent, and is
16 employed by an official inspection agency to perform all or
17 specified functions involved in official inspection; to author-
18 ize any competent employee of the Department of Agri-
19 culture to perform all or specified functions involved in
20 supervisory or appeal inspection or initial inspection of
21 United States grain in Canadian ports; and to license any
22 other competent individual to perform specified functions
23 involved in official inspection under a contract with the De-
24 partment of Agriculture. No person shall perform any official
25 inspection functions for purposes of this Act unless he holds

1 an unsuspended and unrevoked license or authorization from
2 the Secretary under this Act.

3 “(b) All classes of licenses issued under this Act shall
4 terminate triennially on a date or dates to be fixed by regu-
5 lation of the Secretary: *Provided*, That any license shall
6 be suspended automatically when the licensee ceases to be
7 employed by an official inspection agency or to operate
8 independently under the terms of a contract for the conduct
9 of any functions involved in official inspection under this
10 Act: *Provided further*, That subject to paragraph (c) of this
11 section, such license shall be reinstated if the licensee is
12 employed by an official inspection agency or resumes opera-
13 tion under such a contract within one year of the suspension
14 date and the license has not expired in the interim.

15 “(c) The Secretary may require such examinations and
16 reexaminations as he may deem warranted to determine the
17 competence of any applicants for licenses, licensees, or em-
18 ployees of the Department of Agriculture, to perform any
19 official inspection function under this Act.

20 “(d) Persons employed by an official inspection agency
21 and persons performing official inspection functions under
22 contracts with the Department of Agriculture shall not, unless
23 otherwise employed by the Federal Government, be deemed
24 to be employees of the Federal Government of the United
25 States.

1 “REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION,
2 OF LICENSES

3 “SEC. 9. The Secretary may refuse to renew, or may
4 suspend or revoke, any license issued under this Act when-
5 ever, after the licensee has been afforded an opportunity for
6 a hearing, the Secretary shall determine that such licensee is
7 incompetent, or has inspected grain for purposes of this Act
8 by any standard or criteria other than as provided for in this
9 Act, or has issued, or caused the issuance of, any false or
10 incorrect official certificate or other official form, or has ~~other-~~
11 ~~wise~~ *knowingly or carelessly* inspected grain improperly
12 under this Act, or has accepted any money or other con-
13 sideration, directly or indirectly, for any neglect or improper
14 performance of duty, or has used his license or allowed it
15 to be used for any improper purpose, or has otherwise
16 violated any provision of this Act or of the regulations pre-
17 scribed or instructions issued to him by the Secretary under
18 this Act. The Secretary may, without first affording the
19 licensee an opportunity for a hearing, suspend any license
20 temporarily pending final determination whenever the Sec-
21 retary deems such action to be in the best interests of the
22 official inspection system under this Act.

23 “REFUSAL OF OFFICIAL INSPECTION

24 “SEC. 10. (a) The Secretary may (for such period,
25 or indefinitely, as he deems necessary to effectuate the pur-

1 poses of this Act) refuse to provide official inspection other-
2 wise available under ~~the~~ *this* Act with respect to any grain
3 offered for inspection, or owned, wholly or in part, by any
4 person if he determines (1) that the individual (or in case
5 such person is a partnership, any general partner; or in case
6 such person is a corporation, any officer, director, ~~holder, or~~
7 ~~owner~~ *or holder or owner* of more than 10 per centum of the
8 voting stock; or in case such person is an unincorporated
9 association or other business entity, any officer or director
10 thereof) has ~~been convicted of any~~ *committed any repeated*
11 *or flagrant* violation of section 13 of this Act, or that
12 official inspection has been refused for any of the above-
13 specified causes (for a period which has not expired) to such
14 person, or any other person conducting a business with which
15 the former was, at the time such cause existed, or is respon-
16 sibly connected; and (2) that providing official inspection
17 with respect to such grain would be inimical to the integrity
18 of the official inspection service.

19 “(b) For purposes of paragraph (a) of this section, a
20 person shall be deemed to be responsibly connected with a
21 business if he was or is a partner, officer, director, ~~holder, or~~
22 ~~owner~~ *or holder or owner* of 10 per centum or more of its
23 voting stock, or an employee in a managerial or executive
24 capacity.

25 “(c) Before official inspection is refused to any person

1 under paragraph (a), such person shall be afforded oppor-
2 tunity for a hearing.

3 “PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

4 “SEC. 11. No person licensed or authorized by the Sec-
5 retary to perform any official inspection function under this
6 Act, or employed by the Secretary in otherwise carrying out
7 any of the provisions of this Act, shall, during the term of
8 such license, authorization, or employment, (a) be finan-
9 cially interested (directly or otherwise) in any business
10 entity owning or operating any grain elevator or warehouse
11 or engaged in the merchandising of grain, or (b) be in the
12 employment of, or accept gratuities from, any such entity, or
13 (c) be engaged in any other kind of activity specified by
14 regulation of the Secretary as involving a conflict of interest:
15 *Provided, however,* That the Secretary may license qualified
16 employees of any grain elevators or warehouses to perform
17 official sampling functions, under such conditions as the Sec-
18 retary may by regulation prescribe, and the Secretary may
19 by regulation provide such other exceptions to the restrictions
20 of this section as he determines are consistent with the pur-
21 poses of this Act.

22 “RECORDS

23 “SEC. 12. (a) Every official inspection agency and
24 every person licensed to perform any official inspection func-

1 tion under this Act shall maintain such samples of officially
2 inspected grain and such other records as the Secretary may
3 by regulation prescribe for the purpose of administration and
4 enforcement of this Act.

5 “(b) Every official inspection agency required to main-
6 tain records under this section shall keep such records for a
7 period of two years after the inspection or transaction, which
8 is the subject of the record, occurred: *Provided, however,*
9 That grain samples shall be required to be maintained only
10 for such period not in excess of ninety days as the Secretary,
11 *after consultation with the grain trade and taking into ac-*
12 *count the needs and circumstances of local markets,* shall
13 prescribe; and in specific cases other records may be re-
14 quired by the Secretary to be maintained for not more than
15 three years in addition to said two-year period whenever in
16 his judgment the retention of such records for the longer
17 period is necessary for the effective administration and en-
18 forcement of this Act.

19 “(c) Every official inspection agency required to main-
20 tain records under this section shall permit any authorized
21 representative of the Secretary to have access to, and to copy,
22 such records at all reasonable times.

23 “PROHIBITED ACTS

24 “SEC. 13. (a) No person shall—

25 “(1) knowingly falsely make, issue, alter, forge, or

1 counterfeit any official certificate or other official form or
2 official inspection mark;

3 “(2) knowingly utter, publish, or use as true any
4 falsely made, issued, altered, forged, or counterfeited
5 official certificate or other official form or official inspec-
6 tion mark, or knowingly possess, without promptly noti-
7 fying the Secretary or his representative, or fail to sur-
8 render to such a representative upon demand, any falsely
9 made, issued, altered, forged, or counterfeited official
10 inspection certificate or other official form, or any device
11 for making any official inspection mark or simulation
12 thereof, or knowingly possess any grain in a container
13 bearing any falsely made, issued, altered, forged, or
14 counterfeited official inspection mark without promptly
15 giving such notice;

16 “(3) knowingly cause or attempt (whether suc-
17 cessfully or not) to cause the issuance of a false or incor-
18 rect official certificate or other official form by any means,
19 including but not limited to deceptive loading, handling,
20 or sampling of grain, or submitting grain for official
21 inspection knowing that it has been deceptively loaded,
22 handled, or sampled, without disclosing such knowledge
23 to the official inspection personnel before official
24 sampling;

25 “(4) alter any official sample of grain in any

1 manner or, knowing that an official sample has been
2 altered, thereafter represent it as an official sample;

3 “(5) knowingly use any official grade designation
4 or official inspection mark on any container of grain
5 by means of a tag, label, or otherwise, unless the grain
6 in such container was officially inspected on the basis of
7 an official sample taken while the grain was being loaded
8 into or was in such container and the grain was found
9 to qualify for such designation or mark;

10 “(6) knowingly make any false representation that
11 any grain has been officially inspected, or officially
12 inspected and found to be of a particular kind, class,
13 quality, condition, or quantity, or that particular facts
14 have been established with respect to grain by official
15 inspection under this Act;

16 “(7) improperly influence, or attempt to improp-
17 erly influence, any official inspection personnel or any
18 officer or employee of the Department of Agriculture
19 with respect to the performance of his duties under this
20 Act;

21 “(8) forcibly assault, resist, oppose, impede, intimi-
22 date, or interfere with any official inspection personnel
23 or any officer or employee of the Department of Agricul-
24 ture in, or on account of, the performance of his duties
25 under this Act;

1 “(9) falsely represent that he is licensed or author-
2 ized to perform an official inspection function under
3 this Act;

4 “(10) use any false or misleading means in connec-
5 tion with the making or filing of an application for
6 official inspection; or

7 “(11) violate any provision of section 5, 6, 8, 11,
8 or 12 of this Act.

9 “(b) No person licensed or authorized to perform any
10 function under this Act shall—

11 “(1) commit any offense prohibited by subsection
12 (a) ;

13 “(2) knowingly perform improperly any official
14 sampling or other official inspection function under this
15 Act;

16 “(3) knowingly execute or issue any false or
17 incorrect official certificate or other official form; or

18 “(4) accept money or other consideration, directly
19 or indirectly, for any neglect or improper performance
20 of duty.

21 “(c) An offense shall be deemed to have been com-
22 mitted knowingly under this Act if it resulted from gross
23 negligence or was committed with knowledge of the perti-
24 nent facts.

1 "PENALTIES

2 "SEC. 14. (a) Any person who commits any offense
3 prohibited by section 13 shall be guilty of a misdemeanor
4 and shall, on conviction thereof, be subject to imprisonment
5 for not more than six months, a fine of not more than
6 \$3,000 or both such imprisonment and fine; but if such
7 offense is committed after one conviction of such person
8 under this section has become final, such person shall be
9 subject to imprisonment for not more than one year, or a
10 fine of not more than \$5,000, or both such imprisonment and
11 fine.

12 "(b) Nothing in this Act shall be construed as requiring
13 the Secretary to report minor violations of this Act for
14 criminal prosecution whenever he believes that the public
15 interest will be adequately served by a suitable written
16 notice or warning.

17 "RESPONSIBILITY FOR ACTS OF OTHERS

18 "SEC. 15. When construing and enforcing the provisions
19 of this Act, the act, omission, or failure of any official,
20 agent, or other person acting for or employed by any asso-
21 ciation, partnership, or corporation within the scope of his
22 employment or office shall, in every case, also be deemed
23 the act, omission, or failure of such association, partnership,
24 or corporation as well as that of the person.

1 “GENERAL AUTHORITIES

2 “SEC. 16. The Secretary is authorized to conduct such
3 investigations, hold such hearings, require such reports from
4 any official inspection agency or any person, and prescribe
5 such rules and regulations as he deems necessary to effectuate
6 the purposes or provisions of this Act. Whether any certificate,
7 other form, representation, designation, or other
8 description is false, incorrect, or misleading within the meaning
9 of this Act shall be determined by tests made in accordance
10 with such procedures as the Secretary may adopt to
11 effectuate the objectives of this Act, if the relevant facts
12 are determinable by such tests. Proceedings under section
13 9 or 10 of this Act for refusal to renew, or for suspension or
14 revocation of, a license, or for refusal of official inspection
15 service not required by section 5 of this Act, shall not, unless
16 requested by the respondent, be subject to the administrative
17 procedure provisions in sections 554, 556, and 557
18 of title 5, United States Code.

19 “ENFORCEMENT PROVISIONS

20 “SEC. 17. (a) For the purposes of this Act, the Secretary
21 shall at all reasonable times have access to, for the purpose
22 of examination, and the right to copy any documentary
23 evidence of any person with respect to whom such authority
24 is exercised; and the Secretary shall have power to require

1 by subpoena the attendance and testimony of witnesses and
2 the production of all such documentary evidence relating to
3 any matter under investigation, and may administer oaths
4 and affirmations, examine witnesses, and receive evidence.

5 “(b) Such attendance of witnesses, and the production
6 of such documentary evidence, may be required from any
7 place in the United States, at any designated place of hear-
8 ing. In case of disobedience to a subpoena the Secretary may
9 invoke the aid of any court designated in paragraph (h) of
10 this section in requiring the attendance and testimony of
11 witnesses and the production of documentary evidence.

12 “(c) Any such court within the jurisdiction of which
13 such inquiry is carried on may, in case of contumacy or
14 refusal to obey a subpoena issued to any person, issue an order
15 requiring such person to appear before the Secretary or to
16 produce documentary evidence if so ordered, or to give evi-
17 dence touching the matter in question; and any failure to
18 obey such order of the court may be punished by such court
19 as a contempt thereof.

20 “(d) Witnesses summoned before the Secretary shall
21 be paid the same fees and mileage that are paid witnesses in
22 the courts of the United States, and witnesses from *whom*
23 depositions are taken and the persons taking the same shall
24 severally be entitled to the same fees as are paid for like
25 services in the courts of the United States.

1 “(e) Any person who shall neglect or refuse to attend
2 and testify, or to answer any lawful inquiry, or to produce
3 documentary evidence, if in his power to do so, in obedience
4 to the subpoena or lawful requirement of the Secretary, shall
5 be guilty of a misdemeanor, and upon conviction thereof be
6 subject to the penalties set forth in section 14 of this Act.

7 “(f) No person shall be excused from attending and
8 testifying or from producing documentary evidence before
9 the Secretary, or in obedience to the subpoena of the Secre-
10 tary, or in any cause or proceeding, criminal or otherwise,
11 based upon or growing out of any alleged violation of this
12 Act, or of any amendments thereto, on the ground or for the
13 reason that the testimony or evidence, documentary or other-
14 wise, required of him may tend to incriminate him or subject
15 him to a penalty or forfeiture; but no individual shall be
16 prosecuted or subjected to any penalty or forfeiture for or on
17 account of any transaction, matter, or thing concerning which
18 he is compelled, after having claimed his privilege against
19 self-incrimination, to testify or produce evidence, documen-
20 tary or otherwise, except that any individual so testifying
21 shall not be exempt from prosecution and punishment for
22 perjury committed in so testifying.

23 “(g) Any officer or employee of the Department of
24 Agriculture who shall make public any information obtained
25 under this Act by the Department of Agriculture, without its

1 authority, unless directed by the court, shall be guilty of a
2 misdemeanor, and upon conviction thereof be subject to the
3 penalties set forth in section 14 of this Act.

4 “(h) The United States district courts, the District
5 Court of Guam, the District Court of the Virgin Islands, the
6 highest court of American Samoa, and the United States
7 courts of the other territories and possessions of the United
8 States shall have jurisdiction in cases arising under this Act.

9 “RELATION TO STATE AND LOCAL LAWS; SEPARABILITY
10 OF PROVISIONS

11 “SEC. 18. (a) No State or subdivision thereof may re-
12 quire the inspection or description in accordance with any
13 standards of kind, class, quality, condition, or other char-
14 acteristics of grain as a condition of shipment, or sale, of such
15 grain in interstate or foreign commerce, or require any
16 license for, or impose any other restrictions upon, the per-
17 formance of any official inspection function under this Act
18 by official inspection personnel. Otherwise nothing in this
19 Act shall invalidate any law or other provision of any State
20 or subdivision thereof in the absence of a conflict with this
21 Act.

22 “(b) If any provision of this Act or the application
23 thereof to any person or circumstances is held invalid, the
24 validity of the remainder of the Act and of the application

1 of such provision to other persons and circumstances shall not
 2 be affected thereby.

3 “APPROPRIATIONS

4 “SEC. 19. There are hereby authorized to be appropri-
 5 ated such sums as are necessary to carry out the provisions
 6 of this Act *to the extent that financing is not obtained from*
 7 *the fees and sale of samples as provided for in section 7 of*
 8 *this Act.*”

9 ~~“EFFECTIVE~~ EFFECTIVE DATE

10 ~~“SEC. 20.~~ SEC. 2. This Act shall become effective one
 11 hundred and eighty days after enactment hereof, except that
 12 the repeal of the mandatory inspection provisions with re-
 13 spect to grain shipped or delivered for shipment in interstate
 14 commerce shall become effective thirty days after enactment
 15 hereof and the provisions of paragraphs 6(a) and 13(a)
 16 ~~(5)~~ of sections 6(a) and 13(a)(5) of the United States
 17 Grain Standards Act, as amended by this Act shall then
 18 become effective with respect to such ~~grain.~~ grain.”

Passed the House of Representatives May 29, 1968.

Attest:

W. PAT JENNINGS,

Clerk.

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AN ACT

To provide for United States standards and a national inspection system for grain, and for other purposes.

JUNE 3, 1968

Read twice and referred to the Committee on
Agriculture and Forestry

JULY 9, 1968

Reported with amendments

Senate July 11, 1968

- 3 -

land to the South Carolina State Commission of Forestry so as to permit such Commission, subject to a certain condition, to exchange such lands (S. Rept. 1380). p. S8423

Began consideration of S. 1385, relating to the disposition by the Secretary of the Interior of moneys obtained from the sale of materials from public lands. p. S8536

16. OCEANOGRAPHY. The Commerce Committee reported with amendments H. R. 13781, to authorize funds for sea-grant colleges and ocean exploration (S. Rept. 1381). p. S8423

17. TRANSPORTATION. The Commerce Committee reported with amendment S. 858, to amend the Interstate Commerce Act, with respect to recovery of a reasonable attorney's fee in case of successful maintenance of an action for recovery of damages sustained in transportation of property (S. Rept. 1389). pp. S8423-4

18. GRAINS. Passed as reported H. R. 15794, to provide for United States standards and a national inspection system for grain (pp. S8405-7). At the request of Sen. Mansfield an excerpt from the report listing the significant changes made by the bill was inserted as follows:

"(1) Inspection would not be required for any shipment of grain in domestic commerce, except grain in a container bearing a grade designation;

"(2) Additional inspection services, such as inspection of U.S. grain in Canadian ports (now furnished under the Agricultural Marketing Act of 1946), protein tests, and weighing of sacked grain, would be available upon request (now only grading services in the United States are available under the act);

"(3) The lead time for effecting changes in the standards would be increased from 90 days to 1 year;

"(4) Submitted samples could be used in lieu of official samples in official inspection of interstate shipments and of grain in Canadian ports;

"(5) Samplers and laboratory technicians employed by official inspection agencies would be required to have licenses;

"(6) Inspectors' licenses would be issued for 3-year periods (instead of permanently); and

"(7) New enforcement procedures would be provided, including refusal of inspection service; examination of records; subpoena power; exemption from prosecution of witnesses compelled to give self-incriminating testimony; additional specified offenses; and increased penalties."

19. TRADE. Passed with amendment S. 3065, to provide for temporary injunctions or restraining orders for certain violation of the Federal Trade Commission Act. pp. S8465-80, S8502

The Commerce Committee voted to report (but did not actually report) S. 3704, to continue authority to promote U. S. foreign commerce through the use of mobile trade fairs (amended). p. D666

20. HOUSING. Conferees were appointed on S. 3497, the housing bill (p. S8480). House conferees have been appointed.

21. APPROPRIATIONS. Both Houses agreed to the conference report on H. R. 17354, the Interior and related agencies appropriation bill, 1969 (includes Forest Service) (pp. S8497-8502, H6324-30). This bill will now be sent to the President.
22. MILITARY CONSTRUCTION. Both Houses agreed to the conference report on H. R. 16703, the military construction authorization bill which includes CCC debt payment for prior years military family housing overseas (pp. S8516-17, H6334-41). This bill will now be sent to the President.
23. HEALTH; SAFETY. The Commerce Committee voted to report (but did not actually report) H. R. 10790, to provide for the protection of the public health from radiation emissions from electronic devices (amended). p. D665
Sen. Magnuson commended the Council on Family Health for its efforts in helping to educate the public and in developing additional approaches to bring safety to every home. pp. S8412-3
24. WILDLIFE. The Commerce Committee voted to report (but did not actually report) H. R. 25, authorizing cooperation with the States in protecting and developing estuarine area of the counties which have sporting, scenic, or recreational value (amended). p. D666
25. FOREIGN CURRENCIES. Received from this Dept. a report of agreements signed in May and June 1968 for use of foreign currencies. p. S8421
26. WATERSHEDS. Received from this Dept. plans for works of improvement on various watershed projects; to Agriculture and Forestry and Public Works Committees. pp. S8421-1
27. AGING. Sen. Moss announced hearings before the Special Committee on Aging on the "Usefulness of the Model Cities Program to the Elderly," to begin on July 23. p. S8439
28. FLOOD CONTROL. Sen. Mansfield commended Senate passage of the public works rivers and harbors-flood control authorization bill. p. S8444
29. BUDGET. Sen. Case stated "the proliferation of Federal programs and dollars has not...disposed of our problems" and inserted an article, "How Much Can the Federal Budget Do? p. S8445
30. ENVIRONMENTAL SCIENCES. Sen. Yarborough stated "man is exploiting his environment to the fullest with little regard for the consequences of this development", and inserted articles on the subject. pp. S8457-8
31. POLLUTION. Sen. Bayh discussed efforts by major industries in Indiana to reduce air and water pollution and inserted an article on the subject. pp. S8460-2
32. FARM LABOR. Sen. Morse inserted material reflecting the views of farmers concerning the matter of extension of the National Labor Relations Act provisions to agricultural workers. pp. S8481-71

Senate

THURSDAY, JULY 11, 1968

The Senate met at 12 noon, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O Thou seeking shepherd of our souls, who leadest us beside still waters and in green pastures: Unto the hills of Thy strength and glory, we lift the expectant eyes of our faith, for from Thee cometh our help.

Even as with bending backs we toil in the valley, we are grateful that the light of Heaven falls upon our daily tasks and that in the beauty of common things we may partake of the holy sacrament of Thy presence.

Give us a sobering realization that our individual attitudes go to make the national and international climate of these dangerous days in which we live.

By our very failures and fallibilities and by tasks too difficult for us, we are driven unto Thee for strength to endure and wisdom to rightly interpret the signs of these trying times.

Amid all life's changes, Thou who changest not, abide with us and guide us, now and forever. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 10, 1968, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of Francis W. Whitmore to be postmaster at East Setauket, N.Y., which nominating messages were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine

morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1351 and 1352.

The PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. GRAIN STANDARDS ACT

The Senate proceeded to consider the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes which had been reported from the Committee on Agriculture and Forestry, with amendments, on page 3, line 7, after the word "means" strike out "only" and insert "any" in line 23, after the word "quality," strike out "condition, or quantity of sacks of grain, under standards provided for in this Act or, upon request of the interested person applying for inspection," and insert "or condition of grain, under standards provided for in this Act; or, upon request of the interested person applying for inspection, the quantity of sacks of grain, or other facts relating to grain under"; on page 4, line 19, after the word "of" strike out "the kind, class, quality, condition, or quantity of, or other facts relating to grain, under standards provided for in this Act or, upon request of the interested person applying for inspection, other criteria approved by the Secretary under this Act" and insert "an official inspection;"; on page 5, line 7, after the word "the" strike out "term" and insert "terms"; on page 7, line 14, after the word "loaded" strike out "abroad" and insert "aboard"; on page 8, line 13, after the word "That" strike out the comma and "with respect to interstate commerce,"; in line 16, after the word "or," insert "with respect to interstate commerce,"; on page 9, line 14, after the word "United" strike out "State" and insert "States"; in line 17, after the word "quality," strike out "condition, or quantity of, or other facts relating to, grain" and insert "or condition of grain, or quantity of sacks of grain, or other facts relating to grain,"; on page 11, line 1, after the word "into" strike out "the United States Treasury as miscellaneous receipts" and insert "a fund which shall be available without fiscal year limitation for the expenses of the Department of Agriculture incident to providing official inspection services,"; in line 8, after the word "area," insert "but this subsection shall not be applicable to prevent any inspection agency

from operating in any area in which it was operative on the date of enactment of this subsection,"; on page 13, line 10, after the word "has" strike out "otherwise" and insert "knowingly or carelessly"; on page 14, line 2, after the word "under" strike out "the" and insert "this"; in line 6, after the word "director" strike out "holder, or owner" and insert "or holder or owner"; in line 10, after the word "has" strike out "been convicted of any" and insert "committed any repeated or flagrant"; in line 21, after the word "director," strike out "holder, or owner" and insert "or holder or owner"; on page 16, at the beginning of line 11, insert "after consultation with the grain trade and taking into account the needs and circumstances of local markets,"; on page 22, line 22, after the word "from" insert "whom"; on page 25, line 6, after the word "Act" insert "to the extent that financing is not obtained from the fees and sale of samples as provided for in section 7 of this Act,"; at the beginning of line 9 strike out the quotation mark; at the beginning of line 10 strike out "SEC. 20." and insert "SEC. 2."; in line 15, after the word "of" strike out "paragraphs 6(a) and 13(a) (5) of" and insert "sections 6(a) and 13(a) (5) of the United States Grain Standards Act, as amended by"; and in line 18, after the word "such" strike out the quotation mark after the word "grain".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1372), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

This bill would revise the U.S. Grain Standards Act. The significant changes made by it are as follows:

(1) Inspection would not be required for any shipment of grain in domestic commerce, except grain in a container bearing a grade designation;

(2) Additional inspection services, such as inspection of U.S. grain in Canadian ports (now furnished under the Agricultural Marketing Act of 1946), protein tests, and weighing of sacked grain, would be available upon request (now only grading services in the United States are available under the act);

(3) The lead time for effecting changes in the standards would be increased from 90 days to 1 year;

(4) Submitted samples could be used in lieu of official samples in official inspection of interstate shipments and of grain in Canadian ports;

(5) Samplers and laboratory technicians employed by official inspection agencies would be required to have licenses;

(6) Inspectors' licenses would be issued for 3-year periods (instead of permanently); and

(7) New enforcement procedures would be provided, including refusal of inspection service; examination of records; subpoena power; exemption from prosecution of witnesses compelled to give self-incriminating testimony; additional specified offenses; and increased penalties.

PRINCIPAL PURPOSE

The principal purpose of the bill is to make inspection with respect to interstate grain shipments permissive, rather than mandatory, in all cases except grain in a container bearing a grade designation. At present inspection is mandatory where the grain is sold in interstate commerce by grade if a licensed inspector is located at the point from which, or to which the grain is shipped. In its letter requesting this legislation, the Department points out that transportation methods have changed greatly since the act was passed. A large percentage of the grain now shipped in interstate commerce is shipped by truck. An ever-increasing percentage is being shipped by rail under special point-to-point rates. (Under point-to-point rates, the carrier limits the time for loading and unloading, permits no diversion or rerouting, and permits no stops for inspection.) Official inspection of much of the trucklot grain and most of the grain moving under the special point-to-point rates is apparently not desired and is not obtained by the trade even though official inspection of much of such grain is technically required by the act. To provide official inspection for trucklot grain would require stationing of official inspection personnel on a 24-hour basis, particularly during the harvest season, or require that the trucks and the loading and receiving elevators wait for official inspection. Official inspection of trucklot grain has been found feasible in only a few of the larger terminal markets. If the mandatory inspection requirements were enforced with respect to trucklot grain, it would increase the cost of merchandizing the grain and would apparently serve no useful purpose to the trade. Furthermore, the Department asserts that it is discriminatory to require the official inspection of grain shipped by water, or by rail under conventional rates, and not require the official inspection of grain shipped by truck or by rail under special point-to-point rates. It is also discriminatory to require the official inspection of grain shipped from or to a place where a licensed inspector is located and not require the official inspection of grain shipped from or to other points.

COMMITTEE CONSIDERATION

The committee's Subcommittee on Agricultural Research and General Legislation held hearings on June 17 on S. 272, S. 2069, and H.R. 15794. S. 2069 and H.R. 15794 are companion bills, but H.R. 15794 contains a number of improvements made by the House of Representatives. Both of these bills would accomplish the objectives of S. 272, to permit use of submitted samples where that is desired. All witnesses who desired to testify were heard, and witnesses were generally favorable. The National Association of State Departments of Agriculture and the National Association of Chief Grain Inspectors offered a number of amendments, most of which were directed to maintaining requirements for inspection of interstate shipments. Since these amendments were contrary to the basic objectives of the bill, the committee rejected them. An amendment of a technical nature proposed by the National Association of State Departments of Agriculture was adopted, and another amendment proposed by the chief grain inspectors was adopted in part. They will be referred to in

the discussion herein of committee amendments.

Several witnesses testified that the bill would do much to relieve the freight car shortage by eliminating the need to hold cars for inspection. In addition to aiding in the movement of grain, this should result in considerable savings to the trade and the railroads in demurrage and equipment charges.

COMMITTEE AMENDMENTS

The committee amendments would make the following substantive changes in the bill.

(1) They would permit fees for appeal and Canadian port inspections and proceeds from the sale of samples to be deposited in a revolving fund and used to provide inspection service rather than being covered into miscellaneous receipts in the Treasury. This amendment would restore language which was proposed by the Department of Agriculture and contained in H.R. 15794 as it was introduced, but which was deleted by the House. The Department requested the committee to restore the original language and furnished the following information in support of this request:

"First, we are opposed to the House action in amending section 7(e) and section 19 in H.R. 15794. These amendments require that all fees received for appeal inspections and Canadian port inspection of U.S. grain and all proceeds from the sale of samples shall be deposited as miscellaneous receipts in the U.S. Treasury. The U.S. Grain Standards Act was amended in 1958 to provide that the Department could accept reimbursement for overtime, night, or holiday work in connection with appeal inspections. Currently, these charges are deposited in a special fund for our use in meeting these extra costs. They amount to about \$100,000 per year and are needed to pay the extra compensation to Federal inspectors who perform this kind of work.

"The inspection service in Canada for U.S. grain shipments at certain points along the St. Lawrence Seaway is provided on a fee-supported basis and no appropriated funds are involved. Seasonal fluctuation in the workload on the St. Lawrence requires the services of from two to seven inspectors at different times during the year. Collections in Canada this year will amount to approximately \$75,000.

"Unless the authorization for the Department to retain these funds is kept in the bill, it will be necessary to request an increase in the 1969 appropriation of between \$175,000 to \$200,000.

"There are sound reasons why the revolving fund arrangement, as initially provided in H.R. 15794 and as provided in S. 2069, is best. The grain trade wants and needs appeal inspection in the United States. This is true also of initial inspections of U.S. grain moving through Canada for export. The volume of appeal inspections in the United States, including overtime fees, and the volume of inspections of U.S. grain in Canada varies from year to year. It is impossible, therefore, to estimate accurately in advance the funds which will be needed to provide these services. During the last 5 years the number of appeal inspections has ranged from 26,651, to 37,433 yearly; the overtime fees for appeal inspections have ranged from \$75,551 to \$147,200; and the volume of inspections of U.S. grain in Canada has ranged from 1.5 to 2.9 million tons.

"We strongly urge that, as originally provided in H.R. 15794 and as provided in S. 2069, the Department should be authorized to use all appeal fees which are collected and retained and all money obtained from the sale of surplus Federal samples of grain to partially offset its cost under the U.S. Grain Standards Act. During the last fiscal year, these collections amounted to about \$700,000. It is the Department's recommendation that

it should retain these collections and that there should be a corresponding reduction made in the Federal appropriation. This would result in reducing the 1969 appropriation for the administration of this act from about \$2.9 million to about \$2.2 million.

"The reason for this recommendation is that the volume of appeal work is highly unpredictable. It fluctuates greatly by markets and by seasons. Also, no one can foretell what the effect of the proposed revision of the act may be in increasing or decreasing the number of appeals received from grain shippers or buyers. Therefore, it would be highly advantageous for the Department to be authorized to use the appeal fees which it retains so that the available funds can be more closely correlated with the appeal inspection workload."

It should be noted that while the bill, with this committee amendment, would provide that the Department would retain the fees and charges which it collects for appeal inspections, the bill would not make any provisions for the Department to share in any of the fees or charges which are assessed and collected by the official inspection agencies. It is intended, therefore, that the Department's costs of providing supervisory and administrative services under the act will be borne by appropriated funds and, except for inspections in Canada, not by inspection fees.

(2) The committee amendments would authorize the Secretary to refuse inspection service on account of repeated or flagrant violations, without the necessity of a conviction. This amendment was requested by the Department of Agriculture, which advised the committee as follows:

"Secondly, we are opposed to the House action in amending section 10(a) from the original provision of H.R. 15794 so as to authorize withdrawal of inspection service as an administrative sanction against violations of the act only if the person had first been 'convicted' of a criminal violation. We believe that the original wording of H.R. 15794 under which such withdrawal would be authorized in case of commission of 'any repeated or flagrant violation' should be retained. Otherwise, the constructive contribution of section 10 in protecting the integrity of the official grain inspection service is largely nullified. Criminal convictions against individuals or business firms for violation of agricultural statutes like this one are rare. In many instances, although the violation may be irrefutable, the identity of a person cannot be established adequately for the purpose of filing criminal charges. Effective means are needed to protect the great majority of the industry against the actions of a few dishonest persons. We believe that, in order to provide this protection, section 10(a), as set forth in H.R. 15794, originally, should be retained.

"Further, we believe that adequate safeguards against any capricious or unreasonable use of this administrative authority is provided in H.R. 15794 because service cannot be withdrawn except in cases in which it is determined that the person or firm has committed 'repeated or flagrant violation' of section 13 of the act and that providing inspection would be inimical to the grain inspection service. Further, before inspection can be refused, the respondent must be afforded opportunity for a hearing at which all evidence against him must be produced by the Department, and any decision by the Department to refuse service is subject to review by a Federal district court prior to withdrawal."

The Department advised the committee that the most common example of flagrant or repeated violation is that where inspection certificates are altered. In some cases there are numerous altered inspection certificates for various lots of grain in which a single company is interested. It may be dif-

difficult to ascertain the individual or individuals who made the alterations and obtain criminal convictions. The only way to protect the integrity of the inspection service is to withdraw inspection.

(3) Section 7(f) of the act, as it would be amended by the bill, prohibits the operation of more than one inspection agency at one time for any one area. At the present time there is at least one area in the country in which two agencies are authorized to operate. As passed by the House, section 7(f) would require revocation of the authority of one of these agencies. The committee did not feel that it was appropriate to legislate one of these agencies out of business, and has therefore recommended an amendment making section 7(f) inapplicable to prevent any inspection agency from operating in any area in which it is operative on the date of enactment of the bill. The National Association of Chief Grain Inspectors recommended a somewhat similar amendment.

In addition to these three substantive changes, the committee has recommended a number of technical corrections. Most of these, such as corrections in spelling and punctuation, need no explanation. Those that may require some explanation are as follows:

(A) The National Association of State Departments of Agriculture suggested that it be made clear that withdrawal of an inspector's license for improper inspection be authorized only where the inspection was "knowingly or carelessly" made in an improper manner. The committee has recommended this clarification.

(B) The definition of "official inspection" would be amended to make it consistent with section 7(b) and to make it clearly applicable to bulk grain, except with respect to quantitative determination. Quantitative determination would clearly be restricted to sacked grain.

(C) Section 6 would be amended to avoid any inference that sale by proprietary brand or trademark would constitute a sale by grade in the case of an export sale.

(D) Section 12(b) would be amended to provide specifically that, before prescribing the period for which samples must be retained, the Secretary would consult with the grain trade and take into consideration the needs and circumstances of local markets. This would carry out in the statute the intention of the House of Representatives and the Department of Agriculture as expressed in the Congressional Record at pages H4438 and H4439 on May 29, as follows:

"Mr. MAHON. In reading through the language of the bill, I call the gentleman's attention to the provision in section 12(b), where it states, and I quote:

"That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary shall prescribe."

"It has been called to my attention that a number of inspection agencies have expressed a great deal of concern over the wording of that section, due to the undue burden and strain on storage facilities that would occur in the event that the Department of Agriculture chooses to require these grain samples to be maintained for a full 90 days. In a volume operation such as that conducted by many of these exchanges, these samples will quickly accumulate, creating storage problems, and additional expense to comply with such a requirement.

"Accordingly, I want to inquire of the gentleman, as author of the bill before us, and as chairman of the subcommittee examining this legislation, whether or not it is the intent of this bill that the grain samples will be maintained for a full 90 days? I hope the gentleman will clarify the whole matter.

"Mr. PURCELL. I thank the gentleman for raising this point, and I will be happy to clarify what is involved.

"The 90-day figure referred to in section 12(b) represents a limitation for the period that the grain sample can be required to be maintained. Since the legislation also deals with export grain, it was necessary to use a longer period than would be necessary for samples of grain shipped within the United States. There is little reason for requiring a sample to be kept more than a limited time after the arrival of the grain at its destination, and naturally, this will be a function of the distance the grain is to be transported, and the mode of transportation.

"It is the intent of the bill that the Secretary will study the transportation statistics, and provide reasonable figures for retention of the sample which should be worked out with the grain industry itself. Certainly there would be no call for shipments of grain via barge or rail to be maintained for 90 days. A reasonable figure, in view of the needs of the trade, and the need to always insure the orderly marketing of grain would be 45 days for shipment by barge, and 15 days for truck or rail shipment. There would certainly be no need to require the sample to be kept beyond these limitations, except in the most peculiar circumstances.

In order that factors that would affect the ultimate decision on this matter might be more readily available, I asked the Department of Agriculture to comment on this problem. I have with me a letter from Mr. George Grange, Deputy Administrator for Marketing Services, indicating what factors will influence the final decision, which would be within the guidelines I have mentioned.

At this point, I insert Mr. Grange's letter in the record:

"U.S. DEPARTMENT OF AGRICULTURE,

"CONSUMER AND MARKETING SERVICE,

"Washington, D.C., May 23, 1968.

"Hon. GRAHAM PURCELL,

"House of Representatives.

"DEAR MR. PURCELL: This is in response to your request for further details concerning the Department's plans for implementing the provision in H.R. 15794 under which inspection agencies would be required to maintain file samples of grain for a period of time not in excess of 90 days.

"Our grain inspection officials intend to require that the file samples be retained until normal transit time to destination and normal unloading time have expired. This will give inspectors an opportunity to check the file sample whenever there are complaints or questions concerning the initial certification. If the grain dealers are to trade on the basis of U.S. grades and official inspection certificates, they should have this opportunity for review of file samples while the transaction is still in process if the service is to be of maximum usefulness.

"The retention time would vary dependent upon destination and mode of transportation. Domestic shipments by truck and rail would require the shortest time and export shipments the longest.

"The retention times would be part of revised regulations which would not become effective until 180 days after enactment of H.R. 15794. These regulations, under the Administrative Procedures Act, would involve the issue of a rulemaking proposal and consideration of views and comments from interested persons prior to final promulgation.

"We believe that reasonable and realistic retention periods for grain samples can be established which will meet the needs of the grain industry and, at the same time, will not overtax the facilities of Federal, State, or private grain inspection offices.

"We hope that this information provides the additional details on this matter which you desired.

"Sincerely yours,

"G. R. GRANGE,

"Deputy Administrator, Marketing Services.

"I hope that this helps answer the gentleman's question. This bill has been carefully worked out in order to meet the needs of all,

but occasionally there may be questions still to be answered. In a similar vein, there was a question raised as to whether or not cottonseed is included under this bill. It is not.

"I would also hope that members of the grain trade are aware of the outstanding job that my distinguished colleague has done in calling this problem to our attention. I learned immediately after coming to Congress that when he speaks, all within the sound of his voice should listen. I know of no man for whom I have greater respect.

"Mr. BELCHER. Mr. Speaker, will the gentleman yield?

"Mr. PURCELL. I yield to the distinguished minority leader of our Agricultural Committee.

"Mr. BELCHER. I thank the gentleman for yielding, and I am glad that the gentleman from Texas clarified this matter, because to maintain these samples for 90 days would in some instances be almost impossible. In Enid, Okla., for example, they have unloaded as many as 2,177 carloads of wheat and sampled them in a 21-hour period, and the gentleman can see how many samples would be needed, as the grain inspector at Enid, Okla., described it to me. He said that we would have to build another warehouse just to store these samples. So I am glad the gentleman has gotten this matter cleared up, because, as I say, it would be an absolute impossibility to keep all the samples for 90 days.

"Mr. PURCELL. That is correct, and I wish to assure the gentleman from Oklahoma, just as I have endeavored to assure the gentleman from Texas (Mr. Mahon) that after passage of this bill it will take 180 days before it goes into effect. The Department of Agriculture assures me that they will hold hearings and make detailed studies as to the practical length of time in which to keep these grain samples. And, as I say, I am sure it will be in line with the good judgment of the trade itself."

(E) Section 20 of the act, as it would be amended by the bill, would be redesignated as section 2 of the bill. This would make it clear that this section relates to the effective date of the amending bill, rather than the effective date of the original act.

AMENDMENT OF INTERSTATE COMMERCE ACT TO ELIMINATE CERTAIN VALUATION REQUIREMENTS

The Senate proceeded to consider the bill (S. 757) to amend section 19(a) of the Interstate Commerce Act to eliminate certain valuation requirements, and for other purposes, which had been reported from the Committee on Commerce, with amendments, on page 2, line 8 after the word "made," insert "shall make annual valuations of all oil pipeline companies as to which original valuations have been made," and in line 12, after the word "properties" insert "of other common carriers subject to this part,"; so as to make the bill read:

S. 757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a (b)) is amended as follows:

(1) In the paragraph which begins "Second", strike out ", and the present value of the same".

(2) Strike out the paragraph which begins "Third" and the paragraph which begins "Fifth".

(3) In the paragraph which begins "Fourth", strike out "Fourth" and insert in lieu thereof "Third".

(b) Subsection (f) of such section 19a (49 U.S.C. 19a(f)) is amended to read as follows:

"(f) Upon completion of the original valuations herein provided for, the Commission shall thereafter keep itself informed of the cost of all new construction, extensions, improvements, retirements, or other changes in the condition, use, and classification of the property of all common carriers as to which original valuations have been made, shall make annual valuations of all oil pipeline companies as to which original valuations have been made, and may keep itself informed of current changes in quantities, costs, and values of such properties of other common carriers subject to this part, in order that it may have available at all times the information deemed by it to be necessary to enable it to revise and correct its previous inventories, classifications, and values of the properties; and when deemed necessary, may revise, correct, and supplement any of its inventories and valuations."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD subsequently said: Mr. President, I have learned that there was a "hold" on Calendar No. 1352, S. 757. Therefore, I ask unanimous consent that the action of the Senate in passing the bill be rescinded and that the bill be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPONG in the chair). Without objection, it is so ordered.

THE NONPROLIFERATION TREATY

Mr. MANSFIELD. Mr. President, as Senators know, the Nonproliferation Treaty has been signed by the United States, the U.S.S.R., Great Britain, and a number of other nations.

In my opinion, this treaty is an augury of hope; it lays the ground, perhaps, for a new era in better relations; very possibly it may be responsible for a reduction in armaments; and it is, of course, a recognition of the dangers which confront the world in this nuclear age if something is not done to cope with them.

I am delighted that the hearings have been conducted so responsibly by the distinguished Senator from Alabama [Mr. SPARKMAN] and that they have been attended by members of the Joint Committee on Atomic Energy. It is my hope that this start, in such good spirit, will bring about the consideration of the Nonproliferation Treaty by the Senate shortly after it is reported by the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that an editorial published in the Nashville Banner of July 2, 1968, and an editorial published in the Cleveland,

Ohio, Plain Dealer, of June 30, 1968, be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Nashville Banner, July 2, 1968]
WITH APPROPRIATE SAFEGUARDS: AN AUGURY FOR HOPE

President Johnson's remarks attending signature of the Non-proliferation (nuclear) Treaty were expressive of a hope shared—and profoundly—by the people of these United States. By the successful negotiation of this compact, signed almost simultaneously in Moscow and London, a long step was taken toward abatement of world dangers ushered in with the Nuclear Age.

The President did not depict the accomplishment as an automatic guarantee of peace and security. Obviously it is not that; but its purposes, plural, lead in the direction of deliverance by mutual effort from the nuclear threat. As a binding instrument it would:

Commit the nations which do not have such weapons not to produce, nor receive them in the future;

Assure equally that such nations have the full peaceful benefits of the atom;

Commit the nuclear powers to move forward toward effective measures of arms control and disarmament.

In reality this agreement, yesterday formalized, conforms with the offer magnanimously made by the United States, almost from the outset, when it was almost alone in possession of nuclear capability. Neither then nor now could any prospective rival in truth accuse this nation of destructive or monopolistic design.

The stumbling block on this path to date has been refusal of the Soviet to accept the premise of mutual inspection; the elementary enforcement aspect that still is essential. In stipulating that in the past, the United States has laid down no condition for these treaty associates that would not be equally binding on itself—the right of signatory powers to verify by periodic on-site inspections that every member nation is abiding by its agreement. It is the qualifying particular that must be spelled out and accepted to implement against defect the present treaty arrangement.

It fell to President Johnson, as a challenge to patient effort and statesmanship to push and mature this program to the point of international acceptance; the agreement for which, as he stated Monday with pardonable pride, "I have actively sought and worked for since January, 1964."

As a colleague in that effort—bearing a responsibility for the diplomatic processes essential to it—Secretary of State Dean Rusk deserves credit, too, for its successful advancement to this stage.

Tirelessly, and not infrequently the targets of international abuse, they labored for an objective of promise, worthy of humanity's hope—undeterred by either impatience or tirade.

In dedicated treatment of an awesome responsibility—of world importance, and national interest certainly not secondary to it—President Johnson well may have brought to pass the most signal achievement of his career.

It is a step-by-step procedure—this newest stride a long one in the fact that for the first time the major nuclear powers are at least outwardly in agreement; with mutual obligations recognized between them. Of necessary implication, too, is the collateral fact that it may expand further the Soviet-Red China cleavage. As a non-signatory power—in a suspect position differing from that of France—it could be Mao-Tse-tung & Co., against the world.

Realism does not discount the dangers and tensions of the era through which the world is passing, and the Chief Executive did not

speak of them as in the past tense. He did accent the responsibility factor of guarded steps forward, dictated by reason, intelligence and conscience; and the opportunity at each waypoint on that upward path to demonstrate and test good faith.

No treaty is perfect, nor an end in itself. But it is the basis for understanding, and a declaration of international intent. Never more than in this case does it prompt a fervent world hope; expressly that in the agreement reached a formula has been presented—and accepted—that will restrain the skid toward disaster, and be productive of the world peace and security that are America's objectives as co-sponsor.

[From the Cleveland (Ohio) Plain Dealer, June 30, 1968]

NUCLEAR TALKS CREDIT TO L. B. J.

Russia's announced willingness to enter into talks with the United States on the subject of limiting both offensive and defensive nuclear weapons is a personal triumph for the perseverance of President Lyndon B. Johnson.

Getting the Soviet Union into a meaningful discussion of the need of freeing the world from the awful threat of nuclear war could become one of the greatest accomplishments of Mr. Johnson's administration.

Mr. Johnson will have more to say on the disarmament situation at the nuclear non-proliferation treaty-signing ceremony tomorrow in Washington.

The President, early in his career in the White House, was firm in his belief that the two giant nuclear powers must cooperate—despite other trying differences—in keeping peace in the human family. Ambassadors and state secretaries worked toward this meeting of minds but nothing much happened. Still, the President persisted in his efforts and the real groundwork finally was laid at Glassboro, N.J., a little over a year ago during his famous confrontation with Soviet Premier Alexi Kosygin.

The process of bringing along the Russians to a point where they would seriously take a long look at the great expenditure of money for a defensive nuclear system—money that could be more productive in social progress—necessarily was delicate. The attitudes and the incidents that lined the path to the eventual decision to hold talks on the nuclear missiles of attack and defense are well delineated today by John P. Leacacos, chief of The Plain Dealer Washington Bureau, in his weekly column in this section of the newspaper.

Statesmanship, to a large degree, is akin to salesmanship and President Johnson, by everlastingly holding the thought that the Soviet Union eventually could be sold on the wisdom of missile prudence, should get credit for his determination in a cause which often seemed hopeless.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDRESS BY WILLIAM F. MCKEE, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, BEFORE AIR LINE PILOTS ASSOCIATION, SEATTLE, WASH.

Mr. MAGNUSON. Mr. President, Gen. William F. McKee, who is the head of

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued July 23, 1968
For actions of July 22, 1968
90th-2nd; No. 127

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HIGHLIGHT: Senate passed extra-long staple cotton quotas bill.

HOUSE

1. **PACKERS AND STOCKYARDS.** Concurred in Senate amendments to H. R. 10673, to amend the Packers and Stockyards Act of 1921 (pp. H7151-53). This bill will now be sent to the President. The committee report states this bill is intended to clarify a stockyard owner's authority under the Packers and Stockyards Act, on a reasonable and nondiscriminatory basis, to (1) prevent persons not acceptable to him from acting as market agencies or dealers at his stockyard; and (2)

prescribe rules and regulations for the conduct of his yard and operations conducted there, and to allow stockyard owners and market agencies greater discretion as to the services they will furnish.

2. GRAINS. Conferees were appointed on H. R. 15794, to provide for U. S. standards and a national inspection system for grain (p. H7151). Senate conferees have not been appointed.
3. WATERSHEDS. Received from the Agriculture Committee approval of work plans for several watershed projects. pp. H7119-20
4. OCEANOGRAPHY. Conferees were appointed on H. R. 13781, authorizing funds for sea-grant colleges and ocean exploration (p. H7153). Senate conferees have not been appointed.
5. WILDLIFE. Concurred in a Senate amendment to H. R. 25, to authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty (p. H7153). This bill will now be sent to the President.
6. ATTORNEYS' FEES. The Judiciary Committee reported with amendment S. 1073, to remove arbitrary limitations upon attorneys' fees for services rendered in proceedings before administrative agencies of the U. S. (H. Rept. 1773). p. H7218
7. POULTRY. Rep. Smith, Iowa, criticized some "seriously crippling amendments" added by the Senate Agriculture and Forestry Committee to the poultry inspection bill. pp. H7158-9
8. FARM PRICES. Rep. Burke, Fla., discussed the "spread between farm prices...and the prices consumers eventually pay," stated the American farmer is "saddled with Federal regulation and control of virtually every facet of his production and marketing," and urged consideration of Rep. Michel's national dividend proposal, the aim of which he stated is to "restore our entire economy--not just the farm segment--to a sound, business-like basis." pp. H7165-6
9. HIGHWAYS. Rep. Rogers, Fla., expressed concern with the section of the Federal-aid highway bill which would place parks, recreational areas, wildlife and waterfowl refuges, and historic sites "in potential danger." p. H7166
10. COMMITTEE EMPLOYEES. Received from various committees reports showing name, profession, and salary of each person employed by it during the first six months of 1968. pp. H7209-18

SENATE

11. SOLID WASTES. The Public Works Committee reported with amendment S. 3201, to protect the public health by extending for one year the provisions on research and assistance for State and interstate planning for solid waste disposal (S. Rept. 1447). p. S9117

Helstoski
Henderson
Holifield
Horton
Hosmer
Howard
Hungate
Hutchinson
Irwin
Jacobs
Joelson
Jones, N.C.
Kastenmeier
Kazen
Kee
Keith
Kelly
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McFall
McMillan
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Mass.
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Mahon
Mailliard
Mathias, Md.
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May

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Roberts
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Rosenthal
Rostenkowski
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Ryan
St Germain
St. Onge
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Scheuer
Shipley
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Smith, N.Y.
Stafford
Staggers
Stanton
Steed
Stephens
Stratton
Teague, Calif.
Tenzer
Thompson, N.J.
Tiernan
Tunney
Udall
Van Deerlin
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Charles H.
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Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burton, Utah
Bush
Button
Cahill
Carter
Clancy
Clausen,
Don H.
Clawson, Del
Colmer
Conable
Conte
Conyers
Cowger
Cramer
Cunningham
Davis, Wis.
Delaney
Dellenback
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Derwinski
Devine
Dole
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Dwyer
Edwards, Ala.
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Griffiths
Gross
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Hall
Hammer-
schmidt

Hanley
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Hansen, Idaho
Harrison
Harsha
Harvey
Hawkins
Hechler, W. Va.
Hicks
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Mo.
Karth
King, N.Y.
Kupferman
Kuykendall
Kyl
Landrum
Langen
Latta
Leggett
Lloyd
Long, La.
Long, Md.
Lukens
McCloskey
McCulloch
McDonald,
Mich.
McEwen
MacGregor
Machen
Marsh
Martin
Mathias, Calif.
Mayne
Michel
Miller, Ohio
Minshall
Mize
Montgomery
Moore
Morris, N. Mex.
Mosher
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Myers
Natcher
Nichols
O'Neal, Ga.
Ottinger
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Poff
Pollock
Price, Tex.
Pryor
Purcell
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Randall
Rarick
Reid, Ill.
Reinecke
Reuss
Riegle
Robison
Rogers, Colo.
Rogers, Fla.
Roth
Roudebush
Rumsfeld
Sandman
Satterfield
Schadeberg
Scherle
Schneebeli
Schweiker
Scott
Selden
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, Okla.
Snyder
Springer
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Stuckey
Sullivan
Taft
Taylor
Thomson, Wis.
Ullman
Utt
Vander Jagt
Vanik
Wampler
Watkins
Watts
Whalley
White
Williams, Pa.
Wilson, Bob
Winn
Wylder
Wylie
Wyman
Yates
Zablocki
Zion
Zwach

[NOT VOTING—43]

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Anderson, Tenn.
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Aspinall
Blanton
Bolton
Brooks
Celler
Dent
Evins, Tenn.
Fino
Frelinghuysen
Gallagher
Gardner
Goodell
Gurney
Hansen, Wash.
Hébert
Herlong
Holland
Hull
Karsten
King, Calif.
Kirwan
Lipscomb
Mills
Morgan
O'Hara, Mich.
Pucinski
Reid, N.Y.
Resnick
Rhodes, Ariz.
Rhodes, Pa.
Roybal
Schwengel
Talcott
Teague, Tex.
Thompson, Ga.
Tuck
Waggonner
Whitten
Widnall
Willis

So the bill was passed.

The Clerk announced the following pairs:

Mr. Kirwan with Mr. Widnall.
Mr. Aspinall with Mr. Fino.
Mr. Celler with Mr. Frelinghuysen.
Mr. Hull with Mrs. Bolton.
Mr. Evins of Tennessee with Mr. Lipscomb.
Mr. Dent with Mr. Anderson of Illinois.
Mr. Hébert with Mr. Goodell.
Mr. Tuck with Mr. Schwengel.
Mr. Mills with Mr. Rhodes of Arizona.
Mr. Rhodes of Pennsylvania with Mr. Talcott.
Mr. Morgan with Mr. Reid of New York.
Mr. Brooks with Mr. Gardner.
Mr. Anderson of Tennessee with Mr. Thompson of Georgia.
Mr. Blanton with Mr. Gurney.
Mr. King of California with Mr. Willis.
Mr. O'Hara of Michigan with Mr. Whitten.
Mr. Gallagher with Mr. Waggonner.
Mrs. Hansen of Washington with Mr. Holland.
Mr. Pucinski with Mr. Roybal.
Mr. Karsten with Mr. Ashley.
Mr. Resnick with Mr. Teague of Texas.

Mr. MONTGOMERY and Mr. SMITH of Oklahoma changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

The title was amended so as to read: "A bill to amend the act of August 9, 1955, relating to certain common carrier operations in the District of Columbia."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 15794, PROVIDING FOR U.S. STANDARDS AND A NATIONAL INSPECTION SYSTEM FOR GRAIN

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. PURCELL, FOLEY, STUBBLEFIELD, BELCHER, and TEAGUE of California.

PACKERS AND STOCKYARDS ACT AMENDMENTS

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10673) to amend title III of the Packers and Stockyards Act,

1921, as amended, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 10, after "feeders," insert "market agencies."

Page 4, line 7, strike out "market." and insert "market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions."

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, this is difficult to understand. Do all of these amendments apply? Are they germane to the bill?

Mr. POAGE. They are. Yes, sir.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

Mr. PURCELL. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

(Mr. PURCELL asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. PURCELL. Mr. Speaker, I should like to take a few minutes to explain and clarify the purpose of those amendments, so that the Members may have a full understanding of the measure they are being asked to approve.

The intent of the two amendments added by the Senate was considered in an exchange of letters between myself and Senator MILTON YOUNG of North Dakota, a chief sponsor of the bill and a leader member of the Senate Agriculture Committee. I include this exchange of letters at this point in the RECORD:

JULY 12, 1968.

HON. MILTON R. YOUNG,
U.S. Senator,
Washington, D.C.

DEAR SENATOR YOUNG: Before reaching a decision on acceptance of the amendments to H.R. 10673, which the Senate adopted on June 28, I should like to ask you, as a chief sponsor of the bill and a leading member of the Senate Agriculture Committee, the following clarifying questions:

AMENDMENT TO SECTION 302(a)

(1) What is the purpose of adding the words "market agencies"?

(2) Will the amendment conflict with Section 203.8 of the Statement of General Policy under the Packers and Stockyards Act, included on pages 4-6 of the House Agriculture Committee Report on H.R. 10673?

(3) How will the interests of the livestock producer be affected by this amendment?

AMENDMENT TO SECTION 307(b)

(1) How does this relate to the Supreme Court decision in *Denver Union Stock Yard Company v. Producers Livestock Market Association*?

(2) How is the phrase "in occasional and incidental off-market transactions" to be interpreted?

(3) What standards are to be applied to the interpretation of this phrase?

Your answers to these questions will be most helpful to me and will, I hope, assist in assuring acceptance by the House of the Senate amendments.

Thank you very much for your consideration.

Sincerely,

GRAHAM PURCELL.

JULY 15, 1968.

HON. GRAHAM PURCELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PURCELL: Thank you very much for your letter of July 12 with reference to H. R. 10673. I am pleased to have the opportunity to comment on the amendments adopted by the Senate, and hope that my replies to your questions will assist in clarifying the Senate action for you.

My answers to your questions are as follows:

AMENDMENT TO SECTION 302(a)

(1) The purpose of the amendment: It was the intention of the Senate Agriculture Committee, in adopting this amendment, to call to the attention of the administrators of the Act the vital role which market agencies play on the public markets. However, it was not the intention of the Committee by adding these words to alter the existing statutory relationship between market agencies and livestock producers, or between market agencies and stockyard companies; in other words, market agencies will continue to have the legal status of agents for their principals, the livestock producers, and in their dealings with stockyard owners they are to be considered agents of the livestock producers.

It is also not the intention to affect or alter the definition of "market agencies" presently contained in Section 301 (c) of the Packers and Stockyards Act.

(2) Conflict with Section 203.8: It was clearly not the intention that this amendment would conflict with or in any way alter the interpretation of that statement of policy. I am thoroughly familiar with Section 203.8 and know that it was the intention of the Senate Committee in adopting H. R. 10673 to strengthen the rights and responsibilities of the stockyard owner to manage his stockyards, in accordance with Section 203.8 of the Statement of General Policy.

(3) Interests of livestock producer: This was not discussed by the full Committee, but there was no thought of changing the relationship between the principal and his agents, as is explained in my answer to question 1, above.

AMENDMENT TO SECTION 307(b)

(1) Relation to *Denver Union* case: The words "such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets" added by the Senate merely restate the law as spelled out in the 1958 Supreme Court decision, *Denver Union Stockyard Company v. Producers Livestock Association*, 356 U.S. 282; and the words affirm that any regulation which attempted to prevent a market agency from operating on more than one market at the same time would be prohibited, as it was in the *Denver* case.

(2) Interpretation of "occasional and incidental": The words "occasional and incidental" are not precise and denote relativity. The intention of the Committee was that the Department of Agriculture issue rules and regulations illustrating their application according to specific operations. As in the case of other legislation which establishes broad regulatory standards, detailed rules and regulations should be issued by the administrative agency charged with the responsibility of carrying out the law.

It is also the intention that the Department, through the procedures, already established, would apply these words on a case-by-case, individual basis.

(3) Standards for interpretation: I would expect that these words would be interpreted within the entire context of the legislative history of H.R. 10673, as established in both the House and the Senate. It was the intention of the Senate Agriculture Committee that H.R. 10673 and the amendment to Section 307(b) be interpreted to require

market agencies "to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market," as stated in Section 307(b) of H.R. 10673, recognizing that occasional and incidental off-market transactions are not inconsistent with this objective. In the words of the Senate Committee report: "The objective is to permit better management of the stockyards and make them more competitive for the benefit of the operators and those using the facilities."

I hope these comments will be helpful to you.

With warmest personal regards,

Sincerely,

MILTON R. YOUNG.

I should like to direct the attention of the House to the first of these amendments, found at the beginning of line 11 of page 1 of H.R. 10673, which added the words "market agencies" to section 302(a) of the Packers and Stockyards Act, 1921, as amended. The purpose of adding these two words is to make clear to the administrators of the act the important role which market agencies play on the public markets. During the deliberations of the House Agriculture Committee, and of the House on September 29, the role of the market agencies was discussed at great length. It was made clear at that time, and as stated on page 3 of the Agriculture Committee report—House Report 575, August 22, 1967—that:

The commission firms at a terminal market are, in effect, the selling arm of the stockyard. The stockyard company's existence is dependent upon the ability of the commission firms at the stockyards to obtain consignments to the market.

I agree with the intention of highlighting the role of the market agencies, but I also agree that the addition of these words does not alter the existing statutory relationship between market agencies and livestock producers or between market agencies and stockyard companies. Market agencies and commission firms are legally the agents for their principals, the livestock producers. This amendment does not change that legal relationship; in other words, the market agency remains as an agent and the livestock producer remains as a principal, and in their dealings with the stockyard owners, the market agencies also remain in the legal position of an agent of the livestock producers.

Since it is not the intention to change the relationship between principal and agent, the agent, in this case the market agency, would continue to be legally bound to serve the best interests of the principal, the livestock producer, and in cases of conflict, the rights and interest of the principal would prevail.

It is also my clear understanding that the inclusion of the words "market agencies" in section 302(a) does not in any way affect or alter the definition of "market agencies" presently contained in section 301(c) of the act.

I should like to call the attention of the Members to pages 4 to 6 of the report of the House Agriculture Committee on H.R. 10673, which includes an excerpt from part 203 "Statements of General Policy Under the Packers and Stockyards Act," issued by the Department of Agriculture, Consumer and Marketing Service, on December 7, 1965. Sec-

tion 203.8 is reprinted in its entirety. It is my clear understanding that the amendments adopted by the Senate in section 302(a) would neither conflict with, nor alter in any way, section 203.8. The purpose of H.R. 10673 is to strengthen the rights and responsibilities of the stockyard owner to manage his stockyards, as is the purpose of section 203.8.

I should like now to turn to the second amendment adopted by the Senate, which added on page 4, line 7, after the word "market," the sentence:

Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

The first part of this amendment—

Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets—

Merely writes into law the understanding under which the House adopted H.R. 10673 on September 29, 1967. The effect of the Senate language is to restate the law as spelled out in the 1958 Supreme Court decision, *Denver Union Stockyard Co. v. Producers Livestock Marketing Association* (356 U.S. 282). The House Agriculture Committee report states on page 7:

The bill does not prevent a commission man engaged in business at a public stockyard regulated by the Secretary of Agriculture from also engaging in business at another such public stockyard. The testimony shows that it would not seem reasonable or desirable for any stockyard owner to attempt to prevent a commission man from engaging in business at more than one regulated public stockyard. In this respect, therefore, the result under this bill would not be inconsistent with the Supreme Court's holding in *Denver Stock Yard v. Livestock Assn.*, 356 U.S. 282, that the Packers and Stockyards Act does not permit a stockyard owner to prevent a commission man engaged in business at his stockyard from also engaging in business at another regulated stockyard.

To repeat, the first part of the Senate amendment on page 4 codifies the intent of the House in passing H.R. 10673 last year.

However, the remaining portion of the Senate amendment which states "or in occasional and incidental off-market transactions," requires some further explanation.

First, I believe that the words "occasional and incidental" do not of themselves provide sufficient guidance to stockyard owners and those who operate on their markets. The words are simply too vague, and it is clear that the Department of Agriculture, the agency charged with the administration of this regulatory statute, must issue detailed rules and regulations, or policy statements, interpreting these words more precisely. I hope that such regulations will be issued in the near future so that all affected by this law may have clear guidance.

It is also my understanding that the Department, through procedures which it has already established, would interpret the meaning of these words on a case-by-case, individual basis.

This is particularly relevant when there is some question as to whether or

Senate

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basis for development and that there is "deep gratitude for our programs of economic assistance" such as the Peace Corps, Public Law 480, and the Export-Import Bank. pp. H7349-51

13. FEDERAL AID. Rep. Reinecke spoke in support of his bill to create a catalog of Federal assistance programs. p. H7353
14. FOREIGN AFFAIRS. Rep. White spoke in support of his bill to establish the U. S. Section of the United States-Mexico Commission for Border Development and Friendship. p. H7354

SENATE

15. POULTRY. The Agriculture and Forestry Committee reported with amendment S. 2932, to clarify and otherwise amend the Poultry Inspection Act, to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs (S. Rept. 1449). p. S9191
16. COTTON. Tabled the motion to reconsider the vote by which H. R. 10915, the extra-long staple cotton bill, was passed on Mon. p. S9190
17. GRAINS. Conferees were appointed on H. R. 15794, to provide for U. S. standards and a national inspection system for grain (p. S9235). House conferees have been appointed.
18. APPROPRIATIONS. Passed, 82-2, with amendments H. R. 18188, the Transportation Department appropriation bill (pp. S9226-48). Agreed to committee amendments en bloc, which were considered as original text for the purpose of further amendment (pp. S9230-31). A committee amendment would "strike section 204, as carried in the House bill, which would set an obligation limitation of \$26 million on forest highways." Senate conferees were appointed (p. S9247). House conferees have not been appointed.
A subcommittee of the Appropriations Committee approved for full committee consideration H. R. 17522, the State, Justice, and Commerce, the judiciary, and certain related agencies appropriation bill. p. D724
19. LOANS. A subcommittee of the Agriculture and Forestry Committee voted to pass over S. 1971, authorizing loans to cooperatives which furnish services to farmers and rural residents. p. D724
20. TRANSPORTATION. The Commerce Committee voted to report (but did not actually report) without amendment H. R. 159, to establish a Federal Maritime Administration as an independent agency. p. D724
21. OCEANOGRAPHY; FOOD. The Commerce Committee voted to report (but did not actually report) without amendment S. Con. Res. 72, expressing congressional approval of U. S. participation in an International Decade of Ocean Exploration during the 1970's. p. D724

Sen. Clark inserted an article, "The Sea: A Solution to Famine," in which the author concludes, "It is clear that the vast and rolling sea presents one vital answer to world survival." pp. S9204-6

22. RECREATION. The Commerce Committee voted to report (but did not actually report) without amendment H. R. 11026, to assist in development and improvement of recreational opportunities and fish and wildlife programs at reservations. p. D724
23. FISHERIES. The Commerce Committee voted to report (but did not actually report) without amendment S. 3866, to extend for 3 years the Commercial Fisheries Research and Development Act. p. D724
24. PERSONNEL. The Post Office and Civil Service Committee voted to report (but did not actually report) with amendments H. R. 15387, providing for disciplinary action against postal service employees who assault other such employees in performance of official duties. The "Daily Digest" states, "One amendment to the bill would exempt from the employment ceiling postal field service employees and research and engineering employees, with certain exceptions." In reporting on this bill, the Civil Service Commission (with Budget Bureau clearance) recommended that the assault statute be broadened to apply to all Federal employees, including those of the Department of Agriculture. pp. D724-5
25. FARM PROGRAM. Sen. Metcalf inserted Vice President Humphrey's farm policy statement in which he said, "I am ready and willing to take the case for agriculture to the American people--not as a special interest, but as a national interest." pp. S9194-5
26. HIGHWAYS. Sen. Yarborough opposed the House-passed version of the highway authorization bill, which would take from the Secretary of Transportation his authority to protect parklands and historical sites. p. S9214
27. POLLUTION. Concurred in House amendment to S. 1941, to prevent, abate, and control air pollution in D. C. (pp. S9223-26). This bill will now be sent to the President.
28. POVERTY. Sen. Prouty inserted the questionnaire used in a social survey of poverty areas in D. C. pp. S9248-52

EXTENSION OF REMARKS

29. REORGANIZATION. Rep. Rumsfeld spoke on some of the suggestions of the Joint Committee on the Organization of Congress, and Rep. Curtis inserted an article on this subject. pp. E6794-7, E6803-5
30. POSTAL SERVICE. Sen. Fannin inserted an article criticizing the administration's proposed cutback in the postal service. pp. E6797-8

held on the ground at a cost to airlines of \$1500 an hour. And passengers were frustrated.

Among controllers there is an esprit de corps that resembles that of athletes: They take pride in moving as many aircraft as possible in a given timespan, in never being swamped. Whereas FAA rules require a minimum of three miles between radar targets within 40 miles of a radar antenna, the controllers often reduce separation to 2.5 or two miles to get the planes to their destination. That's the corner-cutting practice that PATCO would put a stop to and the FAA is powerless to protest.

Behind the controllers' legitimate slowdown are grievances of long standing.

FAA Administrator William F. McKee has admitted that the FAA failed to anticipate the explosive growth of U.S. air traffic during the mid-1960s. As a result, McKee has said, the agency failed to hire sufficient controllers. And it takes approximately three years of training for a controller to carry his weight in a center or a tower.

Operating at 80 per cent of authorized personnel strength, FAA centers must resort heavily to overtime employment. But under idiosyncrasies of the Federal overtime law, the controller who comes in to work a sixth day on Sunday earns 20 per cent less than the controller who works Sunday on a regular basis.

Increasingly, across the Nation, controllers are pleading sick when asked to work a sixth day. Or they're taking one day's sick leave for every day of overtime they work.

Taking cognizance of the controller shortage, the Senate Appropriations Committee voted unrequested funds to the FAA to hire an additional 1996 controllers. Earlier, the House had approved funds for 1631 new controllers. Thus, if the Senate has its way, the agency will be in position to inject 3627 new men into its centers and towers in the next few years.

According to Gen. McKee, however, the controller shortage is not primarily responsible for the traffic delays now being experienced.

"We have many bottlenecks in the Air Traffic Control system today," he said, "but in our judgment the biggest bottleneck we have . . . is the airport." And whereas it takes three years to train a controller, it takes five to seven years to design and build a major airport.

There are in this country 10,000 airports available to the public. Of the 10,000 approximately 2500 offer paved, lighted runways. Of the 2500, about 515 are served by scheduled U.S. airlines. Of the 515, less than 10 suffer from serious congestion. Of the 10, only one—Kennedy Airport—experiences congestion almost around the clock.

Yet because of a 10-year-old impasse over a site, New Yorkers have not built a so-called fourth jetport (in addition to LaGuardia and Newark) to relieve pressure on Kennedy. And Kennedy's saturation is backing up traffic from Miami to Los Angeles.

As director of FAA's Eastern Region, Oscar Bakke predicted, on June 28, 1967, that "before the end of 1968, Kennedy will be saturated for all practical purposes." He continued: "With each increment of traffic squeezed into the New York area, delays will increase at a still greater rate."

In New York, Kennedy is saturated while Newark has unused capacity. In Washington, National Airport is almost saturated while Dulles has vast untapped potential. Why can't government equalize the load by forcing some airlines to use Kennedy while others use Newark?

Historically, in awarding routes, the Civil Aeronautics Board has prescribed minimum flight frequency between whole metropolitan areas, not maximum flight frequency between specific airports. Only in the last two or three years has the Board awarded

new routes on the condition that airlines serving them land at specific airports.

The real question, the one raised by constitutional lawyers, is whether CAB has the power to amend existing airline certificates to relieve pressure on one area airport at the expense of another. CAB (and FAA) believes it has such power. The airlines claim the exercise of such power would be tantamount to expropriating private property—their own.

Now before a CAB examiner is a case that might resolve the issue. It turns on the issue: can CAB amend the certificates of airlines serving Washington to force some of their flights out of National and over to Dulles and Baltimore Friendship? Several years are likely to elapse before the board renders a decision and the courts uphold or reject it.

Mr. WILLIAMS of Delaware. Mr. President, I hope the Senator is correct. I hope that this will be the last request.

Mr. JAVITS. I do not say that it will be the last one. I just say it is one we have to take into account.

Mr. WILLIAMS of Delaware. Each time we punch a hole in the bucket we are eliminating part of the effectiveness of the \$6 billion spending cut and the requirement for reduction of employees. There is no question about it.

Mr. MONRONEY. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. MONRONEY. Mr. President, I yield 1 minute to the Senator from Louisiana, with the understanding that I do so without losing my right to the floor.

U.S. STANDARDS AND A NATIONAL INSPECTION SYSTEM FOR GRAIN

Mr. ELLENDER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15794.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ELLENDER. I move that the Senate insist upon its amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ELLENDER, Mr. HOLLAND, Mr. JORDAN of North Carolina, Mr. MONTAYA, Mr. AIKEN, Mr. YOUNG of North Dakota, and Mr. BOGGS conferees on the part of the Senate.

SUBCOMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS, 1969

The Senate resumed the consideration of the bill (H.R. 18188) making appropriations for the Department of Transportation for the fiscal year ending June 30, 1969, and for other purposes.

Mr. CLARK. Mr. President, will the Senator from Oklahoma yield to me for 1 minute?

Mr. MONRONEY. I yield.

Mr. CLARK. Mr. President, I strongly support the amendment of the Senator from Mississippi [Mr. STENNIS]. I have personal knowledge of the frightening conditions confronting air traffic controllers throughout the country. Every time we go into the air we take a chance, because those men are overworked and underpaid. Their whole career is short, it is brief, because of the fantastic strains under which they operate.

If there is any one need of American civilization which should be supported, it is the need for more and better air traffic controllers. We cannot hope to get them unless the amendment of the Senator from Mississippi is adopted. I strongly commend him for offering it, and I pledge him my support.

Mr. MONRONEY. I thank the Senator from Pennsylvania. I completely agree with him.

Mr. President, this amendment pertains to perhaps the most stressful aviation occupation with which I have become familiar in my service as chairman of the Subcommittee on Aviation of the Committee on Commerce. Air traffic control touches the very heartstrings of air safety. Without competent, dedicated, experienced air traffic controllers, air traffic as we know it today would be the most dangerous form of transportation in the world's history. Instead, because we have these dedicated men, because we have used, although we have not quite kept up with, the innovations in electronics, travel by air today is the safest mode of transportation in the world's history.

But now a blow is attempted at the very heart of air safety in an effort to reduce the number of Government personnel. So I am compelled to take the floor to issue a sincere warning concerning the danger of such an effort.

I have learned much about the conditions of air travel from the testimony that has been taken since last August on the airports and airways bill; from the information I get almost daily from air traffic controllers; from the pilots of airlines and from private pilots; and from the pilots of executive aircraft.

The amendment of the Senator from Mississippi should not be negated by a failure to suspend the rules, because it is imperative that funds for additional air traffic controllers be included in this appropriation bill. To do otherwise would not be economical; it would be absolutely irresponsible. It would not save money, because for every four experienced air traffic controllers who quit their jobs, only three can be hired, and they will be inexperienced.

Does it make any sense to bring in a Boeing 707, carrying 100 passengers, or will it make any sense to bring in the Boeing 747, the jumbo jet which is soon

to be in service, and have someone who is learning his job, or a temporary employee, in the air traffic control tower as the controller? Is that the way to save money?

Does this proposal primarily have to do with money? No, because the workload exists. The recordbreaking volume of planes in the air will continue to grow until a collision occurs, and then it will be too late. Do not think that that will not happen if this amendment does not prevail. If it does not, it will be necessary to pay the air traffic controllers overtime in order to remain on their jobs.

We can read in the hearings on the airways and airports bill that air traffic controllers are not paid enough. Those who work in towers at congested fields are working 50 hours a week. Forty hours is too long, but 50 hours is intolerable.

The working days of these men are bound to be reduced, as they guide planes carrying thousands of passengers through fog, hail, or rain; on planes arriving and departing within 1 minute of each other; as they communicate with planes stacked over New York, Los Angeles, or O'Hare, at Chicago; in skies that are so thick that one wonders how in the world human capability and electronic genius can keep them apart.

These men are able to do it because they are dedicated men. However, they cannot do it if they work 50 hours a week in a job that I think strains human endurance. I could not stand it for 20 hours a week. Yet, these men, day after day—without having time to have their lunch, eating in the control tower, munching a sandwich and being called back to work on Saturdays and Sundays—are doing this work.

We need the 3,700 air control traffic operators. We have to keep them in school and train them. We cannot hire them overnight. It is not like hiring a man to clean a typewriter or clean out the Senate Office Building or do some other such type of labor. It takes about 2 years to train an air traffic control operator. I know about this because the school is in my city of Oklahoma City.

The choice men are selected and carefully trained, and they move upward. When they graduate from air traffic control school, they are sent to the smaller traffic control centers to improve their technique and knowledge and understanding of what is upstairs when they have to cope with a plane that is groping through a fog with more than 100 passengers in it.

We have to pay for this labor anyway. But instead of paying for it at straight time, the Williams amendment would compel us to pay time and a half. I will give a \$10 bill to anyone that can show me how to man O'Hare Field, John F. Kennedy International Airport, the St. Louis airport, the Dallas airport, the Houston airport, the Miami airport, to name only a few, with any fewer men.

It does not make any sense at all. We are asked to jeopardize the greatest safety record that has ever been made by any form of transportation in a purported effort to save money when we would not save a nickel. And the man that wrote the provision should have known it.

The Budget Director testified for about an hour before my Committee on Post Office and Civil Service today. We asked him the question on which the Senator from Delaware based his argument.

I said, "Why can't you exempt these agencies?"

He said, "We cannot do it because a personnel ceiling is sought to be established in a certain number of years. If I were to exempt the Post Office—and that involves 700,000 employees—and the men in the air traffic control towers and the men whose work relates to safety, there would be a repercussion. The other agencies would have to take a larger cut."

It is up to us to spell out in the legislation—as the amendment does—that with respect to the restoration of men in the air traffic control towers and the safety activities of the FAA, the exemption from the cut does not pass on the cut to the other agencies and thus pyramid the depth of the cut that would be made.

I beg the Senate out of all earnestness and sincerity and the experience that comes from the years of serving with the distinguished chairman of the Commerce Committee, who is extremely knowledgeable about the subject, the distinguished junior Senator from Nevada, a major general of the Air Force, a certificated jet pilot, and all of the other Senators present in the Chamber who know and understand aviation and understand that this is a matter of shooting dice for the lives of human beings. We will not save any money.

This provision was added. We had testimony from the Comptroller General today that the surtax which recently went into effect would bring in \$11 billion of new revenue to repair the existing damage in our fiscal situation.

Let us try to have attrition, but let us do it when we can and where we can and with safety and not cripple the most important part of our transportation system by making it so dangerous that it will result in catastrophic loss if we fail to man the towers and provide the men, as provided in the bill, and train the men already there and the new men. We cannot afford to have anything less than maximum security for the people who travel by air.

I know that thoughtful Senators do not want to take that gamble.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. RANDOLPH. Mr. President, the able Senator from Oklahoma, chairman of the Subcommittee on Aviation of the Commerce Committee, does not overstate the seriousness of the situation that would exist if the amendment offered by the distinguished senior Senator from Delaware were to be agreed to by the Senate.

It is with some reluctance that I mention my own familiarity with subject matter. However, in this instance I want the RECORD to reflect that I speak out of a personal knowledge of this problem. For 11 years I was an officer of a major scheduled airline operating in approximately 16 States which are represented by distinguished Members of this body.

I know what it is to fly a plane, having qualified many years ago, although now I am not active as a pilot. But, along with millions of other Americans, I am constantly a passenger on the planes operating in the crowded skies above America.

The reasoned judgment which is advocated by the Senator from Mississippi, the Senator from Oklahoma and, I am sure, by other Senators clearly must be applied here as we determine our legislative course of action.

At this point I wish to emphasize some of the material I placed in the RECORD on yesterday. I am aware of the very busy schedules of Members of this body, and I doubt that more than perhaps a few Senators have read the articles on air traffic controllers which I asked to have printed in the RECORD of July 22 as part of my remarks on this subject.

One article is entitled, "The Crowded Skies," by Joseph Martin, Sylvia Carter, and Peter Coutros. It was published in the New York Daily News of July 18. I shall read only a portion of it, but this drives home what we are talking about today.

At the beginning of the article is a notation:

Air controllers, men with your life in their hands, see clouds, but no silver lining. There are 30, maybe more, blips on the screen.

A blip, in this usage, is a white speck on the radar screen.

But you are concentrating on two of those blips. It's your job to keep them separated, so that's what you do. Keep them separated . . .

I use the language of the article—and hope to hell they stay separate.

The article itself, after the notation I have read, indicates that the blips are brilliant, white specks moving across a 14-inch radar screen in front of the air traffic controller, with which many Members of this body are familiar. They have seen these screens; they have seen the men who work at them.

I read further:

They are the minuscule representations—

Listen to these words, my colleagues—of the huge airliners, worth millions of dollars and carrying hundreds of passengers. The lives of those people are, for fleeting moments, the precious property of the man who sits with his eyes fixed on the blips. He is called an air traffic controller . . .

I repeat:

The lives of those people are, for fleeting moments, the precious property of the man who sits with his eyes fixed on the blips.

I read further from the article:

Most of those applying for these jobs are young people, 22, 23 years old. They've been in the service and they've acquired some knowledge in handling military air traffic.

I say this with deference to the Senator from Nevada. In this instance, I shall call him not the Senator, but shall refer him, if I may, as General CANNON.

They know the rules. They know the standards. They know the vernacular. But they've never had to cope with crowded skies.

At least, I am reading what this article says:

House

July 26, 1968

relations with the U. S., for the period beginning with the import quota year following severance of the relations and continuing through 2 import quota years after relations are resumed (p. H7627). This bill will now be sent to the President.

5. DAIRY. Conferees were appointed on S. 3638, to extend for 3 years the authority of the Secretary of Agriculture to make indemnity payments to dairy farmers for milk required to be withheld from commercial markets because it contains residues of chemicals registered and approved for use by the Federal Government (p. H7627). Senate conferees have been appointed. The "Daily Digest" states that conferees have agreed to file a report (p. D748).
6. HOUSING. Agreed, 227-135, to the conference report on S. 3497, the housing bill (pp. H7657-67, H7685). For provisions see Digest 130. This bill will now be sent to the President.
7. ROADS. Agreed to the conference report on S. 3418, the road authorization bill (pp. H7768-77). Rejected, 166-167, a motion by Rep. Stratton to recommit the conference report (pp. H7676-77).
8. BUILDINGS. Agreed to the conference report on S. 222, to insure that public buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped. The conferees agreed that "the basic import of this legislation shall be confined to publicly owned buildings including public housing, or buildings accessible to the public." pp. H7680-81
9. RECREATION. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action H. R. 15245 and S. 444, to establish the Flaming Gorge National Recreation Area in Utah and Wyo. p. D748
10. GRAIN INSPECTION; ~~FLOOD CONTROL~~. Conferees agreed to file reports on H. R. 15794, to provide for U. S. standards and a national inspection system for grain, and S. 3710, omnibus rivers and harbors flood control bill. p. D748
11. FOREIGN AID. Rep. Michel criticized the "follies" of our foreign aid program and asked, "How many ungrateful foreign countries are our taxpayers going to be asked to support while our cities crumble?" pp. H7629-30
12. FEDERAL AID; REORGANIZATION. Rep. Roth spoke in support of two bills, to issue and maintain an up-to-date catalog on Federal assistance programs, and the proposed Executive Reorganization and Management Improvement Act. pp. H7685-6
13. FARM PROGRAM. Rep. Olsen stated "the basic principles in the 1965 farm act are tried and tested...and have worked well." He urged a 4-year extension of the program. p. H7692

14. LEGISLATIVE PROGRAM. Rep. Albert announced the following program for the week of July 29, Military construction appropriations, food stamp bill, FHA loans bill, and bill to prevent importation of endangered wildlife. p. H7687

15. ADJOURNED until Mon., July 29. p. H7706

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16. OCEANOGRAPHY. The Commerce Committee reported without amendment S. Con. Res. 72, to express the sense of the Congress with respect to an International Decade of Ocean Exploration during the 1970's (S. Rept. 1476). p. S9442

17. EMPLOYMENT. The Armed Forces Committee reported with amendment H. R. 1093, to amend and clarify the reemployment provisions of the Universal Military Training and Service Act (S. Rept. 1477). p. S9442

18. FOREIGN AID. The Foreign Relations Committee reported with amendment H. R. 15263, the foreign aid authorization bill (S. Rept. 1479). p. S9442

19. POSTAL SERVICE. Passed, 47-8, as reported H. R. 15387, to amend title 39, United States Code, to provide for disciplinary action against employees in the postal field service who assault other employees in such service in the performance of official duties (pp. S9506-11, S9519-20, S9522-45). Agreed, 46-17, to a committee amendment exempting certain postal employees from personnel limitations of the Revenue and Expenditure Act (p. S9537). Rejected, 22-34, the Miller amendment providing that personnel limitations in the Revenue and Expenditure Control Act shall be retained except for those exempted by committee amendment adopted above (pp. S9541-3).

20. POULTRY. Began consideration of S. 2932, the poultry inspection bill. pp. S9545-51

21. CONSERVATION. Sen. Yarborough inserted an editorial supporting his bill to create a Big Thicket National Park in Tex. p. S9449

22. LEGISLATIVE PROGRAM. Sen. Mansfield announced the following program: following disposition of the postal personnel limitations bill, the Senate will take up the State, Justice, and Commerce appropriation bill on Mon., following that, the foreign aid authorization bill. During the week it will dispose of the HEW and Labor appropriations bill and D. C. appropriation bill. pp. S9483-4

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23. POULTRY INSPECTION. Continued debate on S. 2932, the poultry inspection bill. pp. S9590-609, S9622-6

24. HEALTH. Passed with amendments H. R. 15758, the proposed Health Service Amendments of 1968, including continuation of grants for health services to migratory workers through the fiscal year 1971 and increasing gradually the authorization

H. Res. 1166, to print eulogy proceedings on former Speaker Joseph W. Martin, Jr. (H. Rept. 1806);

H. Res. 1183, to print committee proceedings honoring the start of the 40th year in Congress of Hon. Wright Patman, amended (H. Rept. 1807);

H. Res. 1189, to print publication entitled "Conduct of Espionage Within the United States by Agents of Foreign Communist Governments" (H. Rept. 1808);

H. Res. 1190, to print additional copies of H. Rept. 1351, 90th Congress, second session (H. Rept. 1809);

H. Res. 1195, to print the dedication ceremony of the portrait of the Honorable L. Mendel Rivers, chairman, Committee on Armed Services, amended (H. Rept. 1810);

S. Con. Res. 168, to print additional hearings on amendments to the Federal Firearms Act (H. Rept. 1811);

S. Con. Res. 77, to authorize printing of hearings on "Status and Future of Small Business" (H. Rept. 1812);

H.R. 16771, to designate certain lands in the Great Swamp National Wildlife Refuge, N.J., amended (H. Rept. 1813);

H.R. 16092, regarding maximum rates of interest or dividends, amended (H. Rept. 1814); and

H.R. 6909, regarding duty on parts of stethoscopes, amended (H. Rept. 1815).

Pages H 7706-H 7707

Cotton: Agreed to Senate amendment to H.R. 10915, regarding extra-long-staple cotton quota reduction, thus clearing the bill for the White House.

Page H 7627

Dairy Farmers: The House insisted on its amendments to S. 3638, to provide indemnity payments to dairy farmers; agreed to a conference with the Senate; and appointed as conferees Representatives Poage, Gathings, McMillan, Belcher, and Teague of California.

Page H 7627

Printing Resolutions: The following printing resolutions were called up, considered, and adopted by voice votes: H. Con. Res. 213, H. Con. Res. 781, H. Con. Res. 784, amended, H. Res. 1088, amended, H. Res. 1161, H. Res. 1166, H. Res. 1183, amended, H. Res. 1189, H. Res. 1190, H. Res. 1195, amended, S. Con. Res. 68, and S. Con. Res. 77 (for titles see Bills Reported in this issue of the DIGEST).

Pages H 7627-H 7629

Public Works Appropriations: Adopted by a voice vote the conference report on H.R. 17903, the public works for water and power resources development and Atomic Energy Commission appropriation bill, and sent the legislation to the Senate.

The House receded and concurred in Senate amendment No. 3.

Pages H 7630-H 7633

Continuing Appropriations: By a voice vote passed H.J. Res. 1420, making continuing appropriations for the fiscal year 1969.

Pages H 7633-H 7636

Agriculture Appropriations: The House adopted by a voice vote the conference report on H.R. 16913, the appropriations for the Department of Agriculture and related agencies, 1969, and sent the legislation to the Senate.

The House receded and concurred in Senate amendment No. 13; and receded and concurred with amendments in Senate amendments Nos. 14, 19, 24, 25, and 40.

Pages H 7636-H 7643

Rule: Adopted H. Res. 1273, providing for the waiving of points of order against the bill (H.R. 18707) making appropriations for the Department of Defense.

Pages H 7643-H 7649

D.C. Appropriation: By a voice vote the House passed H.R. 18706, the District of Columbia Appropriation Act.

Pages H 7649-H 7657

Housing: Adopted, by a record vote of 226 yeas to 135 nays, the conference report on S. 3497, the Housing and Urban Development Act of 1968, thus clearing the legislation for Presidential action.

Pages H 7657-H 7667

Governor of Virgin Islands: Agreed to Senate amendment to a House amendment to S. 450, to provide for the popular election of the Governor of the Virgin Islands, thus clearing the legislation for the White House.

Pages H 7667-H 7668

Federal-Aid Highway Act: By a voice vote the House adopted the conference report on S. 3418, the Federal-Aid Highway Act, and sent the legislation to the Senate.

By a record vote of 166 yeas to 167 nays rejected a motion to recommit the bill to committee of conference.

Pages H 7668-H 7677

Maritime Authorization: Adopted the conference report on H.R. 15189, the maritime authorization, thus clearing the bill for the White House.

Pages H 7677-H 7678

Gas Pipeline Safety Act: Adopted the conference report on S. 1166, the Natural Gas Pipeline Safety Act, and sent the legislation to the Senate.

Pages H 7678-H 7680

Federal Buildings—Handicapped: Adopted the conference report on S. 222, to insure that public buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped, and sent the legislation to the Senate.

Pages H 7680-H 7681

Rules: Adopted H. Res. 1250, providing for consideration of H.R. 12843, regarding National Eye Institute; and H. Res. 1262, providing for the consideration of H.R. 15757, to amend the Public Health Service Act.

Pages H 7681-H 7683

Calendar Wednesday: Dispensed with Calendar Wednesday business of July 31.

Pages H 7687-H 7688

Referral: One Senate-passed measure was referred to the appropriate committee.

Page H 7706

Legislative Program: The majority leader announced the legislative program for the week of July 29–August 3. Agreed to adjournment from Friday to Monday.

Page H 7687

Quorum Calls—Record Votes: Two quorum calls and two record votes developed during the proceedings of the House and appear on pages H7658, H7666–H7667, H7676–H7677, and H7683.

Program for Monday: Adjourned at 8:03 p.m. until Monday, July 29, 1968, at 12 o'clock noon, when the House will consider the following bills:

H.R. 18785, the military construction appropriations bill;

H.R. 18249, to amend the Food Stamp Act of 1964 (open rule, 1 hour of debate); and

H.R. 17126, the extension of Food and Agriculture Act (open rule, 2 hours of debate).

Committee Meetings

NATIONAL PARKS

Committee on Interior and Insular Affairs: Subcommittee on National Parks and Recreation referred to the full committee for appropriate disposition H.R. 14413 and H.R. 14414, bills regarding Chickamauga and Chattanooga National Military Park, Ga.; and H.R. 15245 and S. 444, to establish the Flaming Gorge National Recreation Area in the States of Utah and Wyoming.

Heard testimony from Representative Harrison and Departmental witnesses on H.R. 15245, and heard testimony on H.R. 8970, to establish the North Cascades National Park and the Ross Lake National Recreation Area, to designate the Pasayten Wilderness and to modify the Glacier Peak Wilderness, in the State of Washington, from Stewart L. Udall, the Secretary of the Interior, and other departmental witnesses.

Joint Committee Meetings

RIVERS AND HARBORS—FLOOD CONTROL

Conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of S. 3710, omnibus rivers and harbors flood control. As agreed upon by the conferees the bill would authorize \$1,706,994,000.

GRAIN STANDARDS

Conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 15794, to amend the laws relating to the inspection and grading of grain.

LAND CONVEYANCE

Conferees, in executive session, agreed to file a conference report on the differences between the Senate- and

House-passed versions of H.R. 10864, a private bill relating to a land conveyance in Arkansas.

MILK INDEMNITIES

Conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of S. 3638, extending authority for indemnity payments to dairy farmers who are directed to remove their milk from markets because it contains certain chemical residues.

CENTRAL ARIZONA PROJECT

Conferees continued, in executive session, to resolve the differences between the Senate- and House-passed versions of S. 1004, authorizing construction and operation of the central Arizona project, Arizona and New Mexico, but did not reach final agreement, and will meet again on Tuesday, July 30.

BILLS SIGNED BY THE PRESIDENT

New Laws

(For last listing of public laws, see DIGEST, p. D743,

July 25, 1968)

H.R. 17354, fiscal 1969 appropriations for the Department of the Interior, and related agencies. Signed July 26, 1968 (P.L. 90-425).

H.R. 15562, extending the act which authorizes loans by the Secretary of Agriculture on leasehold interests in Hawaii. Signed July 26, 1968 (P.L. 90-426).

COMMITTEE MEETINGS FOR SATURDAY, JULY 27

(All meetings are open unless otherwise designated)

Senate

Committee on Appropriations, subcommittee, to continue hearings on fiscal 1969 budget estimates for the D.C., to hear Chief of Metropolitan Police Layton; Public Health Director Dr. Murray Grant; and Deputy Commissioner Fletcher, 9:30 a.m., room S-126, Capitol.

House

No committee meetings are scheduled.

CONGRESSIONAL PROGRAM AHEAD

Week of July 29–August 3

(Committee meetings are open unless otherwise indicated)

Senate Chamber

On Monday it is expected that Senate will consider H.R. 17522, State, Justice, Commerce appropriations, to be followed by H.R. 15263, foreign aid authorizations. Senate will meet at 10 a.m. on Tuesday to hear tributes

Senate

July 30, 1968

- 3 -

"The conference bill provides \$4,608,421,000, which is \$119,201,500 below the amount approved by the Senate; \$109,198,000 above the House; \$300,736,000 below the budget; and \$85,082,000 below the appropriation for fiscal year 1968" (p. S9765). This bill will now be sent to the President.

The Appropriations Committee reported with amendments H. R. 18037, the Labor, Health, Education and Welfare, and related agencies appropriation bill, 1969 (S. Rept. 1484) (pp. S9731-2). The "Daily Digest" states "As approved by the committee the bill would appropriate a total of \$18,488,800,000 an increase of \$1,255,929,000 over the House-passed figure of \$17,232,871,000" (p. D760).

The Appropriations Committee reported with amendments H. R. 18785, military construction appropriations (S. Rept. 1486). Includes funds for repayment to the Commodity Credit Corporation for remaining indebtedness for housing constructed in foreign countries with foreign currencies derived from the sale of surplus commodities. p. S9732

Passed as reported H. R. 18706, the D. C. appropriation bill, 1969 (pp. S9812-4). The bill was earlier reported by the Appropriations Committee with amendments (S. Rept. 1487) (p. S9732). Conferees were appointed (p. S9814).

15. PERSONNEL. Both Houses received and the Senate agreed to the conference report on H. R. 15387, to amend title 39, United States Code, to provide for disciplinary action against employees in the postal field service who assault other employees in such service in the performance of official duties (pp. S9800-1, H7887). Conferees were appointed earlier (p. S9760).

16. HUNGER. Agreed to with amendments S. Res. 281, to establish a Select Committee on Nutrition and Human Needs. The measure resolved that "the Department of Agriculture...use to the fullest possible their authorities under...existing laws...for child aid, medical assistance, and relief programs, to meet immediately the food, medical, and other related basic needs of the Nation's poor to the fullest extent possible." pp. S9760-2

17. SCHOOL LUNCH. Sen. Clark criticized the "Senate...slashing in half--from \$100,000,000 to \$50,000,000--the amount authorized by the House of Representatives for free or very inexpensive meals for needy school children." pp. S9757-8

Received and

18. GRAINS. /agreed to the conference report on H. R. 15794, to provide for United States standards and a national inspection system for grain. p. S9763

19. EDUCATION. Passed with amendments H. R. 16729, to extend for 2 years certain programs involving assistance to students at institutions of higher education, to modify such programs, and to provide for planning, evaluation, and adequate leading time in such programs (pp. S9801-2). Prior to this passage the Labor and Public Welfare Committee was discharged from further consideration of the bill (p. S9801).

Sen. Spong questioned "the right" of the Budget Bureau to withhold funds for the maintenance and operation of schools in areas impacted by large numbers of Federal employees. pp. S9775-6

Sen. Yarborough stated "the Bureau of the Budget will be stabbing Congress in the back if it freezes funds for federally impacted school districts." p. S9737

20. FOREIGN AID. Continued debate on H. R. 15263, to amend further the Foreign Assistance Act of 1961, as amended (pp. S9776-95, S9800, S9802-10, S9812). Sen. Morse stated "that the Department of Agriculture and the Department of the Interior have the administrative authority to impose such rules and regulations and restrictions as may be necessary" to judge whether the supply of timber for local use will be endangered if some of the timber is exported (pp. S9785-89).
21. METRIC SYSTEM. Passed without amendment H. R. 3136, to authorize the Secretary of Commerce to make a study to determine the advantages and disadvantages of increased use of the metric system in the United States (pp. S9810-11). Rejected committee amendment to clarify the intent of an amendment offered and accepted on the House floor regarding funds for this study (p. S9811). This bill will now be sent to the President.
22. WILDLIFE. Received from the Calif. State legislature a resolution calling for "the President and the Congress of the United States to increase the funds available to the United States Forest Service for the enhancement of wildlife habitat and control burning research by the Pacific Southwest Forest and Range Experiment Station"; to the Appropriations Committee. p. S9731
Sen. McGee inserted an editorial "Save the Endangered Species." p. S9738
23. CONSERVATION. Sen. Yarborough commended Secretary Udall's support for the creation of a Big Thicket National Park. p. S9742
Sen. Morse stated about 10 years ago he raised the question about what was happening with the 160-acre limitation ("on delivery of publicly subsidized water to an individual private landowner") in Calif. and said he was disturbed over the "handout which will be provided to large landowners" if the State resolution "toward removing the limitation altogether" is approved. pp. S9732-9
24. POULTRY; FISH. Sen. Mondale pledged himself to "work toward strong egg and fish inspection measures in the next Congress." p. S9739
25. FARM LABOR. Sen. Morse inserted a letter opposed to a bill which would "have legislated the small family farm completely out of existence." pp. S9737-8

EXTENSION OF REMARKS

26. COFFEE. Rep. Curtis spoke against extending the International Coffee Agreement for an additional 5 years because of the lack of time given for a thorough study of this issue. He suggested that the House take the time to investigate and determine if the program is "soundly conceived for the benefit both of the U. S. consumer and the American nations involved." p. E7098

to such cotton exceeds an acreage determined by multiplying the farm acreage allotment by the price-support payment factor but does not exceed the farm acreage allotment, the actual production of such cotton on the farm attributable to the number of acres determined by multiplying the farm acreage allotment by such price-support payment factor. The Secretary shall establish the price-support payment factor for each such crop of extra long staple cotton by dividing the 1966 national acreage allotment for such cotton by the national acreage allotment proclaimed for such crop, except that such factor shall not be more than one. The Secretary shall provide for the sharing of price-support payments under this subsection among producers on a farm on the basis of their respective shares in the crop of extra long staple cotton produced on the farm, or the proceeds therefrom. The provisions of subsection 8(g) of the Soil Conservation and Domestic Allotment Act, as amended (relating to assignment of payments), shall also apply to payments under this subsection. The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carrying out this subsection.

"SEC. 6. Section 347 of the Agricultural Adjustment Act of 1938, as amended, is amended by adding the following new subsections at the end thereof to read as follows:

"(f) Notwithstanding any other provision of law, beginning with the 1968 crop of extra long staple cotton, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which an extra long staple cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him. No allotment shall be transferred under this subsection to a farm in another State or to a person for use in another State. The Secretary shall prescribe regulations for the administration of this subsection and may prescribe such terms and conditions as he deems necessary.

"(g) Notwithstanding any other provision of law, if the extra long staple cotton acreage allotment established for any farm for the 1968 and subsequent crops is greater than such allotment for the preceding crop, because of transfers under subsection (f) of this section or for any other reason, the soil conserving base established for the farm shall be reduced by the same number of acres that the allotment is increased for that year."

"SEC. 7. Section 407 of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof the following: 'Notwithstanding any other provision of this section, effective August 1, 1968, the Commodity Credit Corporation shall make available during each marketing year for sale for unrestricted use at market prices at the time of sale, a quantity of American grown extra long staple cotton equal to the amount by which the production of such cotton in the calendar year in which such marketing year begins is less than the estimated requirements of American grown extra long staple cotton for domestic use and for export for such marketing year: *Provided*, That no sales shall be made at less than 115 per centum of the loan rate for extra long staple cotton under section 101(f) of this Act beginning with the marketing year for the first crop for which the national marketing quota for extra long staple cotton is not established under paragraph (3) of section 347(b) of the

Agricultural Adjustment Act of 1938, as amended. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly.'

"SEC. 8. Section 3 of Public Law 88-638 (78 Stat. 1038) is hereby repealed effective August 1, 1968."

And the Senate agree to the same.

ALLEN J. ELLENDER,
SPESSARD L. HOLLAND,
B. EVERETT JORDAN,
GEORGE D. AIKEN,
MILTON R. YOUNG,

Managers on the Part of the Senate.

W. R. POAGE,
E. C. GATHINGS,
JOHN L. McMILLAN,
PAGE BELCHER,
CHARLES M. TEAGUE,

Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. ELLENDER. Mr. President, this is a conference report which all the conferees signed.

As passed by the House of Representatives, the bill authorized the Secretary of Agriculture to convey certain lands in Saline County, Ark., to the Dierks Forest, Inc. The Senate amendment to this bill added provisions amending the extra-long-staple cotton program. The Senate amendment provided for lower price-support loans, supplemented by price-support payments, so that the price of this kind of cotton would be more in line with the price of upland cotton, and would move into the market instead of into the hands of Commodity Credit Corporation. The Senate amendment also provided for a method of disposing of surplus stocks and increasing acreage allotments.

The conference substitute adopts all of the provisions of the Senate amendment except one, which would have increased the national acreage allotment for the 1968 crop by 6,800 acres. Because the crop has been planted since the Senate adopted this amendment and is now almost ready for harvest, this provision is no longer appropriate and the substitute properly strikes it out.

As I have stated, the conferees of both Houses were unanimous in their agreement. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

U.S. GRAIN STANDARDS ACT— CONFERENCE REPORT

Mr. ELLENDER. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15794), to provide for United States standards and a national inspection system for grain, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered (15).

That the House recede from its disagreement to the amendments of the Senate numbered (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16), (17), (18), (19), (20), (21), (22), and (23); and agree to the same.

ALLEN J. ELLENDER,
SPESSARD L. HOLLAND,
B. EVERETT JORDAN,
JOSEPH M. MONTOYA,
GEORGE D. AIKEN,
MILTON R. YOUNG,
J. CALEB BOGGS,

Managers on the Part of the Senate.

GRAHAM PURCELL,
THOMAS S. FOLEY,
FRANK A. STUBBLEFIELD,
PAGE BELCHER,
CHARLES M. TEAGUE,

Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. ELLENDER. Mr. President, this bill generally revises the U.S. Grain Standards Act. The Senate made 23 amendments to the House bill, mostly of a minor nature. They are really only technical amendments. The conference report adopts all of the Senate amendments, except one.

The Senate amendment not agreed to would have permitted the Secretary of Agriculture to withdraw inspection service for commission of repeated or flagrant violations of section 13 of the act. The House bill permitted such withdrawal for conviction of any violation of section 13. The Senate conferees agreed to the House language with the understanding that the statement of managers on the part of the House would make it clear that withdrawal of service could follow upon conviction without awaiting the conclusion of appeals from such conviction, and could be effective so long as the conviction stood.

I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

WHY BE A CHRISTIAN?

Mr. STENNIS. Mr. President, at a recent meeting of the Senate Breakfast Group in the Senate restaurant, the Senator from Arizona [Mr. FANNIN], a member of our group, presented a most timely and inspiring message entitled "Why Be a Christian?" Senator FANNIN's fine character and deep spiritual insight

lends added value to his words; that this message may be shared with the general public, I ask unanimous consent that Senator FANNIN's remarks on that occasion be printed in the RECORD:

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WHY BE A CHRISTIAN?

There was a time in America when discussion entitled, "Why be a Christian," would have been inappropriate and irrelevant. Not too long ago no one asked that question.

We were born into homes that assumed the Christian way was the way, the only way. People who lived as our neighbors who didn't go to church were considered out of step. It was shocking to hear a person ask the question, "Why be a Christian?" We weren't shocked often—because the question was asked so seldom.

That day has passed. Although we here this morning may not agree, high school, college and young adults show us "Why be a Christian?" is a very "alive" question.

There are some cynical persons of all ages who quite frankly say the whole business of believing in God and trying to follow a Man who lived 2000 years ago is a combination of absurdity and superstition. They never ask—what is life? Is there a Supreme Being?

Even in churches where people are concerned rather than cynical, the question is being faced as never before—"Why be a Christian? Aren't there other ways that are just as sensible—perhaps even superior to Christianity?"

We should not be afraid of the question. Perhaps we should encourage it in church and in our everyday discussions. Isn't our Christian faith strong enough to stand close scrutiny and probing inquiry? I think it is.

There are many ways one could approach the question, but since we are all persons who want practical answers to problems of living, I want, today, to present what seems to me to be some practical reasons for *being a Christian*. For easy remembrance we will call the answers the four H's.

The Christian life is:

Happier.

Harder.

Holier.

And more hopeful than any other life.

In the first place the Christian life is a happy way of living. "Well, now," some say skeptically, "I find it hard to believe. Indeed, I might as well be frank and say that I don't believe it is necessarily so. To me the Christian life is demanding, restricting and forbidding. You may think of some particular individual who is a worthy Christian. But he may have other characteristics that preclude happiness."

Well, it is true that some people who call themselves Christians are not happy people. Their religion is a dreary affair—no joy—no spirit of radiancy.

What would you consider to be the greatest enemies of happiness? Are they not these: worry, boredom and self-centeredness?

Worry—think of the multitudes who are laden by worry, overwhelmed and overburdened with a vague kind of gloom, looking for the worst to happen, no reserves of inner peace, half hypnotized by anxiety.

Christianity gives hope and understanding to many. People who worry, worry sometimes about things that have already happened. That's really rather foolish when you think of it. For good or ill, yesterday's decisions and actions are past and we cannot recall them.

We can learn from mistakes; we sometimes are better equipped because of mistakes. There are lots of things that can be done with the past, but it certainly does no good to worry about it.

Then there are those who worry about things which will never happen. You re-

member the story of the old maid, who, living for thirty years in solitary bliss, always ceremoniously looked under her bed before she retired to see if a burglar were lurking in the dark. Dr. Norman Vincent Peale suggests that had she found one, she would have fainted, not from fright but from surprise.

How does the Christian consider worry? It's foolish to worry. God is with you—it is His world. We are in His hands—in this world and in any other that is to come. Even though the worst should happen, even though our whole scheme of things collapse, God's scheme does not collapse, and nothing, literally and absolutely nothing, can remove us or our loved ones from His keeping.

There is self-centeredness—another enemy of inner happiness. Christianity again can give you a better perspective so that you are no longer the slave of self. We have all heard it said—no one is perfect. It is also true that people can experience a growth out of self-centeredness as more and more they find the power to live for something and someone higher and deeper and more important than one's self. Becoming Christian is a matter of making a decision—committing one's life to Christ—believing what Jesus Christ says—standing up for Him and relying upon and obeying God.

While no man has ever measured up to the stature of Jesus, many a man and woman over the centuries has been able to say because of Him . . . "Whereas once I was blind, now I see; whereas I was a slave, I now am free." Freedom from self comes from losing oneself to Christ. That is Christianity.

If we stopped there, however, that could be a very selfish reason for being a Christian—merely for the happiness it gives. Consider a second point of a totally different kind. The Christian life is *harder* than any other.

Some may say, "But I always thought Christianity was easy—just sign your name, accept a creed, join the church, go now and then, an occasional prayer."

The truth is that modern Christianity doesn't cost some people anything. It is possible to turn to spiritual things for shelter and comfort, but for nothing else. This is what Christianity means to multitudes—a peace of mind cult, an insurance policy. Many such people do what is very possible to do—worship Jesus, but not obey Him. Like the person who attends dozens of religious meetings but who is impossible to live with; or the one who loves to go to church because it makes him feel better, but who does nothing creative to make this world a better place in which to live in between church times.

Some types of religion can be easy; but not the real Christianity. It can and always is desperately difficult to do the genuinely Christian thing. Think how Jesus tightened up the ethical standard. The world used to say, "If you don't kill, steal, nor break the social code, that is all that is required of you." Then Jesus came. "I say no," declared Jesus. "If you have an angry thought, one hidden, lurking resentment against your brother, you need to confess it, for to hate your brother is to sin against God."

The world said, if you don't break the seventh commandment, your character will stand. Jesus came. "I say no. For your impure thoughts—even if they are never more than thoughts—are sins against God."

The world said, if you do just what you are paid for in this life, if you go the mile that duty demands, you can feel content. The Pharisees were very content. But Jesus said, "My way begins on the other side of duty. Go the extra mile."

I know of myself that there is a part of everyone that wants the easiest way possible. But I know, also, that the deeper part, the better part of men and women and children wants something more. We are bigger than that. We admire adventure in others; at our deepest we want adventure. Each of us wants a life that will keep us

on the stretch. We admire men who stand for things worth standing for. We want our lives to count for something.

Difficulties have been described as "God's errands" and being sent upon them is proof of God's confidence. Being a Christian, because it is harder than *not* being a Christian, rewards us in proportion to the "overcoming" we do along the way.

In addition to being happier and harder than any other, the Christian life is holier than any other. This word *holy*, admittedly, is a word for which many people today have little liking. Ask the average young man if he would care to be known as a holy person and probably his reaction will be one of two things—he will either laugh or be horrified. Holy? No thank you. Anything but that.

Granted, the world may have fallen into bad company and come out with a reputation that is less than clear. The original meaning is worth reviewing.

The word *holy* is derived from the old English word for the idea of being made whole. So when we are made holy we become the complete person God originally intended. This "wholeness," or holiness, the psychologists sometimes call an "integrated personality."

Theologians describe holiness as being set apart for the work of God, and holiness is the one attribute of God by which He most desires to be known. It is His trademark, so to speak. When we are joined to God, through the Lord Jesus Christ, then we take on those identifying characteristics—the "family likeness" if you will. The essence of this "wholeness" is the bringing into balance and conformity of every aspect of our lives so that it glorifies God.

No more than we labored for our natural family likeness can we labor for our spiritual family likeness. As we are born into one, so must we be born into the other. But being in the family does not erase the individual. It helps him. Can you think of any greater need of any greater number of people today than that—something to pull life together and integrate it—to deal with the inward conflicts that damage spiritual health so seriously; something to eliminate the discords and repressions and inferiorities and complexes, and to bring everything into harmony and unity of strong, clean, vigorous health—emotional and moral. If every other generation needed holiness, we need it too. This is one of the reasons why Jesus has been called the great physician. He alone can produce this kind of health. He gives life a new purpose. He fills life with a new power.

A new purpose; that is to glorify God. "Seek ye first the Kingdom of God." That's something worth living for. Many people have no purpose in living. They grow up, get educated, get married, have children; the children grow up and if they live through all that, then they begin to ponder, "What am I living for?"

A new power; a vitalizing, supernatural strength that can flood a man's being and send him out like a conqueror to smash his most stubborn besetting sin with the cry upon his lips, "I can do all things through Christ who strengthens me."

The trouble with us in our depressing, and discordant hours is that we are divided. We can't decide what we want most; we are on and off; one day this way, the next, that.

Finally, one last attribute of the Christian life. His way is hopeful. The reason that we can be hopeful about life is that we have the faith to believe in what we cannot see. There is a visible world, the apostle Paul said, and there is an invisible world. We believe in the invisible world, the spiritual, the supernatural.

Thomas Edison when he was but a boy appeared to some people to be a dull and uninteresting young boy. His teachers suggested that his mother take him out of school—according to their way of looking at things, he didn't have it. But Tom's mother saw

House July 31, 1968

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7. FOOD. A subcommittee of the D. C. Committee approved for full committee action S. 2012, to authorize appropriations to pay salaries and related costs of operating the Office of Central Management of the Food Services Department in the D. C. public schools; and to provide for appropriations to pay for lunches furnished to all needy elementary and secondary public school children whose parents are not recipients of public welfare. p. D768
8. INTERGOVERNMENTAL COOPERATION. The Government Operations Committee ordered reported (but did not actually report) H. R. 18826, the intergovernmental cooperation bill. p. D768
9. GRAIN INSPECTION. Received the conference report on H. R. 15794, to revise the Grain Standards Act (H. Rept. 1827) (p. H7955). The conference report adopts all of the Senate amendments to the House bill, mostly of a "technical" nature, with the exception of the Senate amendment which "would have permitted the Secretary of Agriculture to withdraw inspection service for commission of repeated or flagrant violations of section 13 of the act." The Senate conferees agreed to the House language which would have permitted "such withdrawal for conviction of any violation of section 13...with the understanding that the statement of the managers on the part of the House would make it clear that withdrawal of service could follow upon conviction without awaiting the conclusion of appeals from such conviction, and could be effective so long as the conviction stood."
10. DAIRY INDEMNITY. Received the conference report on S. 3638, to extend for 3 years the authority of the Secretary of Agriculture to make indemnity payments to dairy farmers for milk required to be withheld from commercial markets because it contains residues of chemicals registered and approved for use by the Federal Government (H. Rept. 1828). p. H7935
11. BUILDING SAFETY. The Education and Labor Committee reported with amendment H. R. 2567, to promote health and safety in the building trades and construction industry in all Federal and federally financed or federally assisted construction projects (H. Rept. 1824). p. H7969
12. TARIFF. The Ways and Means Committee reported with amendment H. R. 15003, to amend the U. S. Tariff Schedules so as to prevent the payment of multiple customs duties by U. S. owners of racehorses purchased outside of the U. S. (H. Rept. 1825), and with amendment H. R. 16552, to amend the U. S. Tariff Schedules with respect to the tariff classification of invert or highest molasses (H. Rept. 1831). p. H7969
13. PERSONNEL CEILINGS. The Ways and Means Committee reported without amendment H. R. 18985, to amend the Revenue and Expenditure Control Act of 1968, to provide a pool of 14,000 additional appointments which may be made without regard to the employee ceilings of that Act (H. Rept. 1832). p. H7969
14. PERSONNEL. A subcommittee of the Post Office and Civil Service Committee approved for full committee action H. R. 12881, to authorize the payment of

allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at a remote worksite, and H. R. 17954, to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act, the Federal Employees Salary Act of 1964, and other provisions of law. p. D769

15. APPROPRIATIONS. Received the conference report on H. R. 17522, the Depts. of State, Justice, and Commerce, the Judiciary, and related agencies appropriation bill (H. Rept. 1830). pp. H7935-7

Received the conference report on H. R. 18188, Transportation Dept. appropriation bill (H. Rept. 1833). The conferees recommended the restoration of the Senate amendment to strike the obligation limitation of \$26,000,000 on forest highways in section 204 of the House bill, with an amendment that "none of the funds provided under this Act shall be available for the planning or execution of programs the obligations for which are in excess of \$29,000,000, exclusive of the reimbursable program, in fiscal year 1969 for 'Forest Highways'." pp. H7939-40

16. COTTON; LANDS. Received the conference report on H. R. 10864, to authorize the Secretary of Agriculture to convey certain lands in Saline County, Ark., to the Dierks Forests, Inc., which includes a Senate committee amendment to provide a one-price program for extra-long-staple cotton (H. Rept. 1826). pp. H7933-5

17. RECREATION; POWER; PARKS. The Interior and Insular Affairs Committee ordered reported (but did not actually report) H. R. 18333, to study the feasibility of establishing an Upper Mississippi Valley National Recreation Area; S. 224, to make nonreimbursable the cost of the work which was necessary to rehabilitate the Eklutna Federal hydroelectric power project in Alaska because of damage caused by the Earthquake of 1964; and H. J. Res. 1384, relating to the administration of the national park system. p. D768

18. LEGISLATIVE PROGRAM. Rep. Albert announced that on Thurs., Aug. 2, Rep. Mills may seek to bring up under unanimous-consent request H. R. 18985, to amend the Revenue Expenditure and Control Act of 1968 to provide approval of 14,000 additional appointments (p. H7947); and the "Daily Digest" states that H. R. 15757, the health-manpower bill, H. R. 18209, to amend the Consolidated Farmers Home Administration Act to provide loans to supplement farm income, etc., and H. R. 11618, to prevent the importation of endangered species of fish or wildlife, will be considered (p. D768).

19. FOOD STAMP. Rep. Eckhardt opposed the Teague amendment to the food stamp bill to prevent distribution of food stamps to unionists on strike and students. p. H7895

20. HUNGER. Rep. Gonzalez criticized the CBS television broadcast "Hunger in America" as "far from responsible and far from accurate." pp. H7951-5

U.S. GRAIN STANDARDS ACT

JULY 31, 1968.—Ordered to be printed

Mr. POAGE, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 15794]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15794) to provide for United States standards and a national inspection system for grain, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 15.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, and 23, and agree to the same.

GRAHAM PURCELL,
THOMAS S. FOLEY,
FRANK A. STUBBLEFIELD,
PAGE BELCHER,
CHARLES M. TEAGUE,
Managers on the Part of the House.

ALLEN J. ELLENDER,
SPESSARD L. HOLLAND,
B. EVERETT JORDAN,
JOSEPH M. MONTOYA,
GEORGE D. AIKEN,
MILTON R. YOUNG,
J. CALEB BOGGS,
Managers on the Part of the Senate.

STATEMENT OF MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 15794, to provide for U.S. standards and a national inspection for grain, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended an accompanying conference report.

The amendments of the Senate to the House bill were technical, save and except: (1) an amendment to provide that inspection fees, instead of being deposited as miscellaneous receipts in the U.S. Treasury, would continue to be placed in a revolving fund for the use of the inspection service in meeting overtime charges in connection with appeal inspections, (2) an amendment to subsection 7(f) to allow the continued operation of more than one inspection agency in any one area which on the date of enactment of the bill has two such agencies, and (3) an amendment of section 10(a) to allow withdrawal of inspection services upon the commission of "any repeated or flagrant" violation of section 13 of the act.

The House receded from its disagreement to the first two amendments above described. In the first instance fees for appeal inspection and Canadian port inspection and proceeds from the sale of samples shall continue to be deposited, as they are presently, in a special fund for the use of the Department in meeting the extra costs of overtime, night, or holiday work in connection with appeal inspections. The U.S. Grain Standards Act was amended in 1958 to so provide and the conferees agreed to continue this practice.

Secondly, conferees agreed to the Senate language allowing those areas now having more than one inspection agency to continue the operation of two such services where two were operative on the date of enactment of the bill. At present there is at least one area in the country where two agencies are authorized to operate. The bill as agreed to by the conferees would prohibit the opening after enactment of more than one inspection agency at any one time for any one area.

The Senate amendment not agreed to would have permitted the Secretary of Agriculture to withdraw inspection service for commission of repeated or flagrant violations of section 13 of the act. The House bill permitted such withdrawal for conviction of any violation of section 13. The Senate conferees agreed to the House language with the understanding that the statement of managers on the part of the House would make it clear that withdrawal of service could follow upon conviction without awaiting the conclusion of appeals from such conviction, and could be effective so long as the conviction stood.

GRAHAM PURCELL,
THOMAS S. FOLEY,
FRANK A. STUBBLEFIELD,
PAGE BELCHER,
CHARLES M. TEAGUE,
Managers on the Part of the House.

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5. WILDERNESS. The Interior and Insular Affairs Committee reported with amendment H. R. 13512, to designate the Mount Jefferson Wilderness, Willamette, Deschutes, and Mount Hood National Forests, Oreg., as wilderness areas (H. Rept. 1838). p. H8112
6. GRAIN INSPECTION. Agreed to the conference report on H. R. 15794, to revise the Grain Standards Act (p. H8023). See Digest 135 for conference report provisions. This bill will now be sent to the President.
7. COTTON; LANDS. Agreed to the conference report on H. R. 10864, to authorize the Secretary of Agriculture to convey certain lands in Saline Co., Ark., to the Dierks Forests, Inc. The bill contains an amendment to provide a price-support program for extra-long staple cotton. This bill will now be sent to the President. pp. H8023-4
8. APPROPRIATIONS. Both Houses agreed to the conference report on H. R. 18188, the Transportation Dept. appropriation bill, which includes funds for forest highways. This bill will now be sent to the President. pp. H7991-9, S9995-7
Both Houses agreed to the conference report on H. R. 17552, the Depts. of State, Justice, and Commerce, the judiciary, and related agencies appropriation bill, 1969. This bill will now be sent to the President. pp. H7999-8003, S10003-9
Received the conference report on H. R. 18706, the D. C. appropriation bill (H. Rept. 1841) pp. H8003-4
9. FISH AND WILDLIFE. Passed with amendments H. R. 11618, to prevent the importation of endangered species of fish and wildlife into the U. S., and to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to State law. pp. H8024-9
10. RECREATION. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 15245, to establish the Flaming Gorge National Recreation Area, Utah and Wyo. p. D775
11. TAXATION. The Ways and Means Committee voted to report (but did not actually report) H. R. 14095, to make certain changes to facilitate the production of wine, and H. R. 17332, regarding taxes on gasoline and oils used for agricultural purposes. pp. D775-6
12. RECLAMATION. The conferees agreed to file a report on S. 1004, authorizing construction and operation of the central Arizona project, Ariz. and N. Mex. p. D776
13. FARM PROGRAM. Rep. Findley commended the subsidy payment-limitation amendment to the farm bill and recommended that Congress terminate the commodity management activities of this Dept., "especially Government buying, selling, and storage of grain." p. H8072

14. EDUCATION. Rep. Mink deplored the lapsing of funds for federally impacted school areas and called on her colleagues to join her in urging the President to reconsider the matter. pp. H8076-7
15. TRADE POLICY. Rep. Brown, Ohio, criticized the nation's trade policy and said we need to take necessary steps to correct the deficit in our balance-of-payments. pp. H8089-94
16. CONSUMERS. Rep. Patman praised and inserted the text of an article "Installment Credit and the Low-Income Consumer: A Case Study." pp. H8100-5
17. COOPERATIVES. Rep. Friedel inserted an editorial explaining the objectives of S. 752, the recently enacted so-called agricultural cooperative trucking bill. pp. H8107-8

SENATE

18. TRANSPORTATION. The Commerce Committee reported without amendment H. R. 159, to establish a Federal Maritime Administration as an independent agency (S. Rept. 1495). p. S9931
19. TAXATION. The Finance Committee reported with amendments H. R. 2767, to amend the Internal Revenue Code of 1954 to allow a farmer an amortized deduction from gross income for assessments for depreciable property levied by soil or water conservation or drainage districts (S. Rept. 1497). p. S9931
20. OCEANOGRAPHY. Both Houses received and the Senate agreed to the conference report on H. R. 13781, to authorize continuation of the sea-grant college program through fiscal 1969 and 1970 (H.Rept. 1837) (pp. S10017, H8061-2). Senate conferees agreed to the House language to authorize "not to exceed the sum of \$6 million" for fiscal 1969, and the House conferees agreed to the Senate language to authorize "not to exceed the sum of \$8 million" for fiscal 1970.
21. APPROPRIATIONS. Passed, 71-3, with amendments H. R. 18785, military construction appropriations (pp. S9958-77, S9979-94). This bill includes funds for payment to the Commodity Credit Corporation on the remaining indebtedness for housing constructed in foreign countries with foreign currencies derived from the sale of surplus commodities. Conferees were appointed (p. S9994). House conferees have not been appointed.
22. HEALTH. Conferees were appointed on H. R. 15758, to amend the Public Health Service Act to extend and improve the provisions relating to regional medical programs, to extend the authorization of grants for health of migratory agricultural workers, and to provide for specialized facilities for alcoholics and narcotic addicts (pp. S9994-5). House conferees have been appointed.
23. FLOOD CONTROL. Agreed to the conference report on S. 3710, to authorize the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes (pp. S9999-10002).

applicable to interferences with an individual's conduct of his business relations even though that interference were premised on or motivated by racial considerations.

Title I of the Civil Rights Act of 1968, 18 U.S.C. section 245(b)(3), which punishes threats or incidents of violence against businessmen "during or incident to a riot or civil disorder" also is inapplicable. That section is applicable only to acts which occur during or incident to a riot, and there is no indication that the acts that are the subject of the newspaper clippings can be so characterized.

Other provisions of Title I of the Civil Rights Act of 1968 provide penalties for intimidation on account of race or color of individuals in the exercise of certain enumerated rights such as attending school utilizing public accommodations and serving on juries. But this section would provide no penalty for intimidation of a businessman unless he were engaged in one of these enumerated activities and in addition it were clear that his participation in that particular activity was the reason for the harassment.

The matter that you have brought to our attention therefore does not appear to violate any laws administered by this Department. However I want to assure you that our policy with respect to enforcement of the civil rights laws is to investigate incidents we have cause to believe may involve violations of those laws regardless of whether such incidents involve harassment of whites by Negroes or Negroes by whites.

Sincerely,

STEPHEN J. POLLAK,
Assistant Attorney General,
Civil Rights Division.

[News release from the Department of Justice, July 29, 1968]

The Department of Justice filed suit today charging Roper Hospital in Charleston, South Carolina with discriminating against Negroes in violation of two sections of the Civil Rights Act of 1964.

Attorney General Ramsey Clark said the civil suit, brought in United States District Court in Charleston, alleged violations of the public accommodations and employment sections of the 1964 Act.

The Department sought a court order barring the private hospital from discriminating racially in admitting patients, hiring staff members or permitting use of any facility.

Roper Hospital has discontinued various federal financial assistance since enactment of the 1964 Act, which includes a section forbidding discrimination in federally-assisted programs.

But the Department said the hospital is covered by the public accommodations section because it contains a cafeteria and a snack bar.

The section, which lists eating facilities as being covered, also covers any establishment that houses a covered facility and purports to serve its patrons.

The suit said the hospital does not admit Negroes and furnishes them limited outpatient service on a racially-segregated basis.

It was also asserted that the hospital, which employs 523 persons, hires few if any Negroes as professional or clerical workers and provides racially-segregated facilities for its employees.

Negroes are employed exclusively or almost exclusively as orderlies, practical nurses, nurses' aides, service workers and unskilled laborers, the suit said.

Mr. NELSEN. Mr. Speaker, for the consideration of the District of Columbia revenue bill many factors were involved in conference.

The conferees did agree on a generous Federal payment set at the figure of \$90 million.

The conferees agreed on some adjustment of sales taxes applying to food and liquor sales.

One item long in dispute dealt with regulation of liquor sales in the District of Columbia.

Now that we have passed the Reorganization Act and a city council is provided, it can be argued with merit that rules and regulations relative to liquor sales in the District of Columbia, should be handled by the City Council.

The Congress should not be bogged down by the multitude of municipal problems we have to face.

I may say, however, that I did not support the amendment which transferred the authority for liquor sales to the District of Columbia Council, I took this position primarily because it is the declared objective of the Council to permit Sunday sales of liquor.

Many hold that we should exercise extreme care relative to the conduct of affairs in our Nation's Capital. I support that view.

I would point out that the remedy now rest with petition before the Council for clarification.

The majority of the conferees, however, supported the item in dispute and the conference report was recommended for adoption.

CONFERENCE REPORT ON S. 3638, DAIRY INDEMNITY PAYMENTS

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (S. 3638) to extend for 3 years the authority of the Secretary of Agriculture to make indemnity payments to dairy farmers for milk required to be withheld from commercial markets because it contains residues of chemicals registered and approved for use by the Federal Government, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 31, 1968.)

Mr. POAGE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 15794, U.S. GRAIN STANDARDS ACT

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (H.R. 15794) to provide for U.S. standards and a national inspection system for grain, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 31, 1968.)

Mr. POAGE (during the reading). Mr. Speaker, I ask unanimous consent that the statement of the managers on the part of the House be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mrs. MAY. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Washington.

Mrs. MAY. Mr. Speaker, I just take this time to say there is no objection to the conference report on this side.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. GROSS. Would the gentleman kindly tell us which bill this is?

Mr. POAGE. This is the grain standards bill.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 10864, EXTRA-LONG-STAPLE COTTON, DIERKS FORESTS

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (H.R. 10864) to authorize the Secretary of Agriculture to convey certain lands in Saline County, Ark., to the Dierks Forests, Inc., and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 31, 1968.)

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. GROSS. Could we have just a brief explanation of this bill?

Mr. POAGE. Yes, sir. I will be glad to.

This is a bill which when it went to the other body involved nothing more than the clearing of title to certain lands which at one time had been public lands and sold with an incorrect survey in the State of Arkansas. In the other body there was an amendment placed on the bill which added to it a change in the method of supporting extra-long-staple cotton, shifting that support from the present method, which is a loan of 48 cents a pound to the present system for upland cotton of a much lower loan of about 32 cents a pound plus a payment of an 8-cent payment and bringing that in line with the support payment on upland cotton.

At least according to the figures presented by the Department of the other

body there is a saving to the U.S. Treasury of some \$4 million or \$5 million a year. That saving would be achieved by reason of the fact that this bill limits the support to 90,000 bales of cotton and no more could be supported under this program. The payments would amount to approximately \$40 a bale. That cotton would not go into the loan, and you would have no losses except that direct payment.

Mr. GROSS. Will the gentleman yield for a brief comment?

Mr. POAGE. Certainly.

Mr. GROSS. I appreciate the statement of the gentleman that there may well be some economy in the amendment, but it would be my hope that the Committee on Agriculture as well as all other committees of the House would do everything within their power to resist this business of ungermane amendments being attached to meritorious legislation that the House sends to the other body.

I just do not like to see an ungermane amendment attached to this legislation. It would be my hope that in the future the great Committee on Agriculture would not go along with this procedure.

Mr. POAGE. I can assure the distinguished gentleman from Iowa that I am in complete agreement with his statement and I pointed out at the conference the same criticism. I believe I made the statement at that time that we were not going to come back to conference with them on any other actions of this kind if such procedure were undertaken to be followed in the future.

Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Washington [Mrs. MAY].

(Mrs. MAY asked and was given permission to revise and extend her remarks.)

Mrs. MAY. Mr. Speaker, I take this time merely to state as the ranking minority member of the Committee on Agriculture at the conference on this matter that we have no objection to the conference report.

Mr. POAGE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

TO AMEND TITLE 10, UNITED STATES CODE, TO PRESCRIBE HEALTH CARE COST-SHARING ARRANGEMENTS FOR CERTAIN SURVIVING DEPENDENTS

Mr. HARDY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 18673) to amend title 10, United States Code, to prescribe health care cost-sharing arrangements for certain surviving dependents, and for other purposes.

The Clerk read the title of the bill.

The Speaker. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 18673

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That chapter 55 of title 10, United States Code, is amended as follows:

(1) by adding the following new subsection at the end of section 1079:

"(g) When a member dies while he is eligible for receipt of hostile fire pay under section 310 of title 37, United States Code, or from illness or injury incurred while eligible for such pay, his dependents who are receiving benefits under a plan covered by subsection (d) of this section shall continue to be eligible for such benefits until their eligibility is otherwise terminated."

(2) by adding the following new section at the end thereof:

"§ 1088. Cost-sharing for certain dependents

"Notwithstanding any other provisions of this chapter, when a member dies while he is eligible for the receipt of hostile fire pay under section 310 of title 37, United States Code, or from illness or injury incurred while eligible for such pay, his dependents shall, for a period of one year following the date of his death, pay for benefits under this chapter on the same basis prescribed for the dependents of members of the uniform services who are on active duty."

(3) the analysis is amended by inserting the following item:

"1088. Cost-sharing for certain dependents."

SEC. 2. The amendments made by this Act shall be effective as of January 1, 1967.

(Mr. HARDY asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. HARDY. Mr. Speaker, the purpose of the bill is simply to see that dependents of servicemen are not suddenly faced with increased medical costs because the serviceman was killed in Vietnam.

When an active duty member dies his surviving dependents continue to be eligible for regular health care benefits but under a different cost-sharing arrangement. For civilian hospitals active duty dependents are required to pay the first \$25 or \$1.75 per day, whichever is greater. However, on the day following the death of an active duty member and for any subsequent period of hospitalization his surviving dependents are required under present law to pay 25 percent of the total cost of the care obtained.

Cases have come to the committee's attention where service wives were pregnant at the time their husbands died in Vietnam. Under present law if they subsequently receive their maternity care at civilian hospitals they would be charged as dependents of deceased personnel and would be required to pay 25 percent of all costs which would typically result in a cost to the woman of approximately \$150. This is in contrast to the usual cost of \$25 for maternity care of a wife whose husband is still alive.

This is a result not envisioned at the time the law was enacted. The bill would provide that for a 1-year period following the death of a serviceman while in the receipt of hostile fire pay, or from illness or injury incurred while eligible for such pay, charges for his dependents for medical care shall continue at the active duty dependent rate.

Additionally, the bill would continue the eligibility for care of a mentally retarded or physically handicapped spouse or child of a service member killed in Vietnam. The program of care of these mentally retarded and physically handicapped dependents is limited to depend-

ents of active duty personnel. Without the bill, therefore, the dependents would lose their eligibility under the program at the time the service member dies. The bill would continue the benefits under the program until eligibility was lost for reasons other than the serviceman's death.

The bill is retroactive to January 1, 1967, which is the commencement date of the program for assistance to mentally retarded and physically handicapped dependents.

The estimated annual cost of the bill is \$165,000.

(Mr. HALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

[Mr. HALL'S remarks will appear hereafter in Extensions of Remarks.]

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO PREVENT THE IMPORTATION OF ENDANGERED SPECIES OF FISH OR WILDLIFE INTO THE UNITED STATES

Mr. DINGELL. Mr. Speaker, I as unanimous consent for the immediate consideration of the bill (H.R. 11618) to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to State law; and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no person shall import into the United States, its territories or possessions, or the Commonwealth of Puerto Rico, any species or subspecies of fish or wildlife or parts thereof which the Secretary of the Interior determines to be threatened with extinction, except as provided in subsection (b) of this section. A species or subspecies of fish or wildlife shall be regarded as threatened with extinction whenever the Secretary of the Interior finds, after consultation with the affected foreign country, and, when appropriate, with the International Union for the Conservation of Nature and Natural Resources, that its existence is endangered because its habitat is threatened with destruction, drastic modification, or severe curtailment, or because of overexploitation, disease, predation, or because of other factors. He shall, from time to time, publish in the Federal Register the names of the species or subspecies of fish or wildlife found to be threatened with extinction under this section.

(b) The Secretary may permit, under such terms and conditions as he may prescribe, the importation of any species, or subspecies of fish or wildlife or parts thereof that are threatened with extinction for zoological, educational, and scientific purposes.

(c) The Secretary of the Interior and the Secretary of the Treasury shall enforce the provisions of this section, including any regulations issued thereunder. Any person who



Public Law 90-487
90th Congress, H. R. 15794
August 15, 1968

An Act

82 STAT. 761

To provide for United States standards and a national inspection system for grain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Grain Standards Act, consisting of part B of "An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes", approved August 11, 1916 (39 Stat. 446, at 482), as amended (7 U.S.C. 71-87), is hereby amended to read as follows:

United States
Grain Standards
Act.

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'United States Grain Standards Act'.

"DECLARATION OF POLICY

"SEC. 2. Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, and to provide for an official inspection system for grain; with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated.

"DEFINITIONS

"SEC. 3. When used in this Act, except where the context requires otherwise—

"(a) the term 'Secretary' means the Secretary of Agriculture of the United States or his delegates;

"(b) the term 'Department of Agriculture' means the United States Department of Agriculture;

"(c) the term 'person' means any individual, partnership, corporation, association, or other business entity;

"(d) the term 'United States' means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

"(e) the term 'State' means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

"(f) the term 'interstate or foreign commerce' means commerce from any State to or through any other State, or to or through any foreign country;

"(g) the term 'grain' means corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of this Act;

"(h) the term 'export grain' means grain for shipment from the United States to any place outside thereof;

"(i) the term 'official inspection' means the determination and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain, under standards provided for in this Act; or, upon request of the interested person applying for

inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Secretary under this Act (the term 'officially inspected' shall be construed accordingly);

"(j) the term 'official inspection personnel' means employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this Act; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports;

"(k) the term 'official inspection mark' means any symbol prescribed by regulations of the Secretary to show the official determination of an official inspection;

"(l) the term 'official grade designation' means a numerical or sample grade designation, specified in the standards provided for in this Act;

"(m) the term 'official inspection agency' means the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this Act;

"(n) the terms 'official certificate' and 'official form' mean, respectively, a certificate or other form prescribed by regulation of the Secretary under this Act;

"(o) the term 'official sample' means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term 'official sampling' shall be construed accordingly);

"(p) the term 'submitted sample' means a sample submitted by or for an interested person for official inspection, other than an official sample;

"(q) the term 'lot' means a specific quantity of grain identified as such;

"(r) the term 'interested person' means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

"(s) the verb 'ship' with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one's own grain by any means of conveyance;

"(t) the terms 'false', 'incorrect', and 'misleading' mean, respectively, false, incorrect, and misleading in any particular;

"(u) the term 'deceptive loading, handling, or sampling' means any manner of loading, handling, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this Act.

"STANDARDS

"SEC. 4. (a) The Secretary is authorized to investigate the handling, grading, and transportation of grain and to fix and establish standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary is authorized to amend or revoke such standards whenever the necessities of the trade may require.

"(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this Act shall become

effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

“OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN EXPORT GRAIN

“SEC. 5. Whenever standards are effective under section 4 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain that is sold, offered for sale, or consigned for sale by grade, unless such lot is officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided, however,* That the Secretary may waive any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments.

Waiver authority.

“REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

“SEC. 6. (a) Whenever standards are effective under section 4 of this Act for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided,* That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other factor information shall not be deemed to be a description of grain as being of any grade.

“(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

“OFFICIAL INSPECTION AUTHORITY AND FUNDING

“SEC. 7. (a) The Secretary is authorized to cause official inspection under the standards provided for in section 4 of this Act to be made of all grain required to be officially inspected as provided in section 5 of this Act, in accordance with such regulations as he may prescribe.

“(b) The Secretary is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States or with respect to United States grain in Canadian ports under standards provided for in section 4 of this Act, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, or condition of grain, or quantity of sacks of grain, or other facts relating to grain, whenever in his

Reinspections
and appeal in-
spections.

63 Stat. 377.

Fees.

judgment providing such service will effectuate any of the objectives stated in section 2 of this Act.

"(c) The regulations prescribed by the Secretary under this Act shall include provisions for reinspections and appeal inspections; cancellation of certificates superseded by reinspections and appeal inspections. The Secretary may provide by regulation that samples obtained by or for employees of the Department of Agriculture for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).

"(d) Certificates issued and not canceled under this Act shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

"(e) The Secretary may, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated total cost of official inspection except when the inspection is performed by employees of an official inspection agency. The fees authorized by this paragraph shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Department of Agriculture incident to the performance of appeal and Canadian port inspection services for which the fees are collected, including supervisory and administrative costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Department of Agriculture incident to providing official inspection services.

"(f) Not more than one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area, but this subsection shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on the date of enactment of this subsection.

"LICENSES AND AUTHORIZATIONS

"SEC. 8. (a) The Secretary is authorized to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official inspection agency to perform all or specified functions involved in official inspection; to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports; and to license any other competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture. No person shall perform any official inspection functions for purposes of this Act unless he holds an unsuspended and unrevoked license or authorization from the Secretary under this Act.

Termination
and suspen-
sion of li-
censes.

"(b) All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official inspection agency or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: *Provided further*, That subject to paragraph (c) of this section, such license shall be reinstated if the licensee is employed by an official inspection agency or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

“(c) The Secretary may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Department of Agriculture, to perform any official inspection function under this Act. Examination of applicants.

“(d) Persons employed by an official inspection agency and persons performing official inspection functions under contracts with the Department of Agriculture shall not, unless otherwise employed by the Federal Government, be deemed to be employees of the Federal Government of the United States.

“REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION, OF LICENSES

“SEC. 9. The Secretary may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected grain improperly under this Act, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the regulations prescribed or instructions issued to him by the Secretary under this Act. The Secretary may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final determination whenever the Secretary deems such action to be in the best interests of the official inspection system under this Act.

“REFUSAL OF OFFICIAL INSPECTION

“SEC. 10. (a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection otherwise available under this Act with respect to any grain offered for inspection, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof) has been convicted of any violation of section 13 of this Act, or that official inspection has been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing official inspection with respect to such grain would be inimical to the integrity of the official inspection service.

“(b) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

“(c) Before official inspection is refused to any person under paragraph (a), such person shall be afforded opportunity for a hearing. Opportunity for hearing.

"PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

"SEC. 11. No person licensed or authorized by the Secretary to perform any official inspection function under this Act, or employed by the Secretary in otherwise carrying out any of the provisions of this Act, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: *Provided, however,* That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as he determines are consistent with the purposes of this Act.

Sampling func-
tions by cer-
tain licensed
employees.

"RECORDS

Requirements.

"SEC. 12. (a) Every official inspection agency and every person licensed to perform any official inspection function under this Act shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this Act.

"(b) Every official inspection agency required to maintain records under this section shall keep such records for a period of two years after the inspection or transaction, which is the subject of the record, occurred: *Provided, however,* That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to said two-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

Access to
records.

"(c) Every official inspection agency required to maintain records under this section shall permit any authorized representative of the Secretary to have access to, and to copy, such records at all reasonable times.

"PROHIBITED ACTS

SEC. 13. (a) No person shall—

"(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official inspection mark;

"(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official inspection mark, or knowingly possess, without promptly notifying the Secretary or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official inspection certificate or other official form, or any device for making any official inspection mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official inspection mark without promptly giving such notice;

"(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, or sampling of grain, or submitting grain for official inspection knowing that it has been deceptively loaded, handled, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling;

"(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

"(5) knowingly use any official grade designation or official inspection mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container and the grain was found to qualify for such designation or mark;

"(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this Act;

"(7) improperly influence, or attempt to improperly influence, any official inspection personnel or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;

"(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;

"(9) falsely represent that he is licensed or authorized to perform an official inspection function under this Act;

"(10) use any false or misleading means in connection with the making or filing of an application for official inspection; or

"(11) violate any provision of section 5, 6, 8, 11, or 12 of this Act.

"(b) No person licensed or authorized to perform any function under this Act shall—

"(1) commit any offense prohibited by subsection (a);

"(2) knowingly perform improperly any official sampling or other official inspection function under this Act;

"(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

"(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

"(c) An offense shall be deemed to have been committed knowingly under this Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

"PENALTIES

"SEC. 14. (a) Any person who commits any offense prohibited by section 13 shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than six months, a fine of not more than \$3,000 or both such imprisonment and fine; but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprison-

ment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine.

"(b) Nothing in this Act shall be construed as requiring the Secretary to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"RESPONSIBILITY FOR ACTS OF OTHERS

"SEC. 15. When construing and enforcing the provisions of this Act, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

"GENERAL AUTHORITIES

"SEC. 16. The Secretary is authorized to conduct such investigations, hold such hearings, require such reports from any official inspection agency or any person, and prescribe such rules and regulations as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 or 10 of this Act for refusal to renew, or for suspension or revocation of, a license, or for refusal of official inspection service not required by section 5 of this Act, shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5, United States Code.

80 Stat. 384.

"ENFORCEMENT PROVISIONS

Subpena power.

"SEC. 17. (a) For the purposes of this Act, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, and may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena the Secretary may invoke the aid of any court designated in paragraph (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Court order requiring attendance and testimony of witnesses.

"(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Fees and mileage costs.

"(d) Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the

United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

“(e) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

“(f) No person shall be excused from attending and testifying or from producing documentary evidence before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Refusal to
testify, pro-
hibition.

“(g) Any officer or employee of the Department of Agriculture who shall make public any information obtained under this Act by the Department of Agriculture, without its authority, unless directed by the court, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.

Unlawful dis-
closure of in-
formation,
penalty.

“(h) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this Act.

“RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

“SEC. 18. (a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon, the performance of any official inspection function under this Act by official inspection personnel. Otherwise nothing in this Act shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this Act.

“(b) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

“APPROPRIATIONS

“SEC. 19. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sale of samples as provided for in section 7 of this Act.”

EFFECTIVE DATE

SEC. 2. This Act shall become effective one hundred and eighty days after enactment hereof, except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof and the provisions of sections 6(a) and 13(a)(5) of the United States Grain Standards Act, as amended by this Act shall then become effective with respect to such grain.

Approved August 15, 1968.

Ante, pp. 763,
767.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1344 (Comm. on Agriculture) and No. 1827 (Comm. of Conference).

SENATE REPORT No. 1372 (Comm. on Agriculture & Forestry).

CONGRESSIONAL RECORD, Vol. 114 (1968):

May 29: Considered and passed House.

July 11: Considered and passed Senate, amended.

July 30: Senate agreed to conference report.

Aug. 1: House agreed to conference report.

468-A
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3540 E